

## TOWN OF KITTERY

200 Rogers Road, Kittery, ME 03904 Telephone: (207) 475-1329 Fax: (207) 439-6806

## WORKSHOP 6:00 P.M.

The Town Council will meet with the Town Manager and Economic Development Committee and Bill Cullen, Business Park property owner, to discuss any potential business opportunities/growth for the Business Park.

August 8, 2016

Council Chambers

Kittery Town Council Regular Meeting 7:00 p.m.

- 1. Call to Order
- 2. Introductory
- 3. Pledge of Allegiance
- Roll Call
- 5. Agenda Amendment and Adoption
- 6. Town Manager's Report
- 7. Acceptance of Previous Minutes 5/16/16 & 5/25/16 Special and 7/25/16 Regular Meetings
- 8. Interviews for the Board of Appeals and Planning
- 9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials.

(080116-4) The Kittery Town Council moves to discuss the next steps for the Rice Public Library proposal.

#### PUBLIC HEARINGS

- a. (080116-2) The Kittery Town Council moves to hold a public hearing to ordain by ordinance to follow Title 21-A §722-A Determination of Declared Write-in Candidate.
- b. (080116-1) The Kittery Town Council moves to hold a public hearing and hereby ordains amendments to Title 13 of the Kittery Town Code.

#### 11. DISCUSSION

- a. Discussion by members of the public (three minutes per person)
- b. Response to public comment directed to a particular Councilor
- c. Chairperson's response to public comments

#### 12. UNFINISHED BUSINESS

#### 13. NEW BUSINESS

- a. Donations/gifts received for Council disposition
- b. (080116-3) The Kittery Town Council moves to approve the disbursement warrants
- c. (080116-4) The Kittery Town Council endorses the Town Manager's recommendation for the Assessment Appeal Arbitration Process/Policy.
- d. (080116-5) The Kittery Town Council moves to approve amendment to Appendix A of the Kittery Town Code.
- e. (080116-6) The Kittery Town Council moves to approve an application from Cork Distributors Inc., 12 MacDougal Street, Kittery, Maine for a Malt, Spirituous and Vinous Liquor License for For the Love of Food & Drink, 120 Rogers Road.
- f. (080116-7) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Port Authority to interview Charles C. Patten for his appointment to that board until 8/31/18.
- g. (080116-8) The Kittery Town Council moves appoint a representative to meet with the Chair of the Board of Assessment Review to interview Mary Thron for her appointment to that board as an alternate member until 12/31/19.
- COUNCILOR ISSUES OR COMMENTS
- COMMITTEE AND OTHER REPORTS
  - a. Communications from the Chairperson
  - b. Committee Reports

#### 16. EXECUTIVE SESSION

(080116-9) The Kittery Town Council moves to go in to executive session with the Town Manager in accordance with 1 M.R.S. §405 (6) (A) to discuss a personnel matter.

#### ADJOURNMENT

Posted: August 4, 2016



Carol M. Granfield Interim Town Manager

### TOWN OF KITTERY

Office of the Town Manager
200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

cgranfield@kitteryme.org

## Town Manager's Report to the Town Council August 3, 2016

- 1. **Personnel Items** There are several items currently in progress. We are interviewing candidates for the Commissioner of Public Works and the Police Lieutenant positions. The Shoreland Resource Officer position will be starting on a full time basis on August 15. The Administrative Assistant position for the Police Chief is changing from part time to full time as of September 1. The current Harbormaster has resigned effective the end of September and as the position reports to the Kittery Port Authority and also the town, we will be involved with the hiring process. Additionally an Assistant Harbormaster has also resigned effective the end of August. I will soon be scheduling a Personnel Committee meeting to discuss a variety of job descriptions to include the HR Manager and Harbormaster as well as some others, and will then move forth to the Town Council to schedule a public hearing to officially add them into the Code.
- 2. Sewer Betterments The Council has been provided with a variety of material to review pertaining to the upcoming meeting scheduled for plan adoption. I will be providing the Town Council with an update on the Auditor's Financial review and have provided information from the Town Counsel regarding two easements that were requested to be reviewed. The information is being updated and corrected as necessary at no additional cost.
- 3. Channel 22 We are in the process of finally moving forth with Comcast to have the work done at the various locations so we eventually will be able to broadcast live from each site. We are also starting to move forth and speaking with KCC to have a studio there. We hope to continue to expand programs and eventually have another station dedicated to other programs, however until the franchise agreement is further reviewed to determine if the town desires to extend the agreement, we will broadcast other programs on Chanel 22.
- 4. **John Paul Jones Park** We still have not received a final maintenance agreement back and hope to have this in place before the Commissioner of Public Works retires the end of this month.
- 5. Parking Meeting I have invited businesses and property owners to attend a meeting to provide and discuss some information pertaining to available parking in the Foreside area. Various Department Heads will be on hand to both provide information and some ideas and listen to the ideas and feedback provided by those in attendance. I have had a volunteer intern assist with this project and hope the end result will be to improve the parking situation in this vibrant business area.
- 6. **Retirement** A retirement party is being held for Commissioner Norman Albert on Thursday, August 25 at the KCC from 3:00 to 5:30. Employees, Town Council and the public are invited to stop by and wish Norm the best.
- 7. Employee Recognition Service Awards As part of our Employee Recognition Program, we are recognizing employees' significant years of service with the Town of Kittery. Since the program started 7-1-16, we decided to recognize all employees who have already hit 25 years' or more, and those who hit the significant years of service as of 7-1-16 under 25 years of service. The following employees will be recognized at the Town Council meeting on Monday, August 8th and presented with pins:

David Leary – 35 years as of 9-8-15

Gary Eaton – 35 years as of 8-11-15

Janice Grady - 30 years as of 1-24-13

Julie Ruggeri – 30 years as of 2-3-16

John Tuttle – 25 years as of 2-22-15

Maryann Place – 25 years as of 9-5-14

Steve Hamel – 25 years as of 6-4-14

Norm Albert – 25 years as of 8-15-13

Linda Driscoll – 25 years as of 2-2-12

Fred Dixon -25 years as of 10-14-11

Dawn Jenkins - 10 years as of 7-10-16

The Fire Department has its own recognition program, but we would still like to mention those employees years' of service in our newsletter and in the Manager's Report at the Town Council meeting. Congratulations to the following:

Frank Frisbee – 65 years as of 10-1-15

Beryl Hoyt -50 years as of 1-1-13

Harold Niles – 45 years as of 10-1-13

William Paisley – 45 years as of 4-1-14

Kevin Cullen – 35 years as of 11-1-11

Mark Bitomski – 25 years as of 7-1-12

Steven Erhard - 25 years as of 10-1-12

Respectfully Submitted,

#### Carol

Carol M. Granfield

## **UNAPPROVED MINUTES**

1					
2 3 4 5 6 7 8 9	May 16, 2016	Kittery Town Council Special Meeting Requested by Gary Beers, Chair	Council Chambers		
	1. CALL TO ORDER: Chairperson Beers called the meeting to order at 6:00 p.m.				
	2. INTRODUCTORY:	Chairperson Beers read the introductory.			
11 12 13	3. PLEDGE OF ALLEGIANCE: Chairperson Beers led those present in the Pledge of Allegiance.				
14 15 16	4. ROLL CALL: Answering the roll were Councilors Frank Dennett, Russell White, Judy Spiller, Kenneth Lemont, Vice Chair Charles Denault and Chairperson Beers.				
17 18	5. DISCUSSION:				
19 20 21	a. Discussion by members of the public (only on item 6 below and three minutes per person).				
22	b. Chairperson's re	sponse to public comments			
23 24	There was no public comment or response from the Chairperson.				
25 26 27	6. NEW BUSINESS				
28 29 30		Cittery Town Council moves to receive preserch from the following firms:	sentations on proposals		
31 32 33	<ul><li>Eaton &amp; Peabod</li><li>Municipal Resou</li><li>Maine Municipal</li></ul>	rces, Inc.			
35 36 37	Don Jutton of Municipal	ed presentations from Don Gerrish of E Resources, Inc., on their process for a tion was unable to attend and was not	Town Manager search.		
39 10	b. (050216-2) The k search process effective u	attery Town Council moves to select a firm Intil June 30, 2016.	n for the Town Manager		
11 12 13		Y COUNCILOR DENAULT TO SELECT I			

## **UNAPPROVED MINUTES**

45 46	ROLL CALL VOTE WAS TAKEN AND MOTION FAILED 3-3
46 47 48	A MOTION WAS MADE BY COUNCILOR BEERS TO SELECT EATON AND PEABODY THROUGH JUNE 30, 2016, SECONDED BY COUNCILOR LEMONT.
49 50	ROLL CALL VOTE WAS TAKEN AND MOTION PASSED 6-0
51 52	7. ADJOURNMENT:
53 54	IT WAS MOVED BY COUNCILOR SPILLER AND SECONDED BY COUNCILOR WHITE TO
55 56	ADJOURN THE MEETING AT 6:22 P.M. ALL WERE IN FAVOR BY A VOICE VOTE. MOTION PASSED 6-0.
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## **UNAPPROVED MINUTES**

1				
2 3 4 5	May 25, 2016	Kittery Town Council Special Meeting Requested by Gary Beers, Chair	Council Chambers	
6 7	1. CALL TO OR	DER: Chairperson Beers called the meeting t	o order at 7:00 p.m.	
8 9 10	2. INTRODUCTO	ORY: Chairperson Beers read the introductor	y.	
11 12 13	3. PLEDGE OF ALLEGIANCE: Chairperson Beers led those present in the Pledge of Allegiance.			
14 15 16	4. ROLL CALL: Answering the roll were Councilors Frank Dennett, Russell White, Jeffrey Thomson, Kenneth Lemont, Judy Spiller, Vice Chair Charles Denault and Chairperson Beers.			
17 18	5. PUBLIC HEAI	RINGS		
19 20 21 22	a. (050316-1) The Kittery Town Council moves to hold a public hearing on an application from Frisbee's Holdings LLC, 5 Milano Drive, Saugus MA for a Victualer's License for Pepperrell Cove Restaurant, 90 Pepperrell Road.			
23 24 25 26	FRISBEE'S HOLDIN	COUNCILOR SPILLER TO APPROVE THE IGS LLC FOR A VICTUALER'S LICENSE FOR COUNCILOR WHITE.		
27 28	ROLL CALL VOTE	WAS TAKEN AND MOTION PASSED, 7-0		
29 30 31 32	from Frisbee's Holding	e Kittery Town Council moves to hold a public ngs LLC, 5 Milano Drive, Saugus MA for a Spe Cove Restaurant, 90 Pepperrell Road.	hearing on an application ecial Activity Amusement	
33 34 35 36	FRISBEE'S HOLDIN	COUNCILOR SPILLER TO APPROVE THE IGS LLC FOR A SPECIAL ACTIVITY AMUSE E RESTAURANT, SECONDED BY COUNCIL	EMENT PERMIT FOR	
37 38	ROLL CALL VOTE	WAS TAKEN AND MOTION PASSED, 7-0		
39 10	6. ADJOURNME	NT:		
11 12 13		COUNCILOR THOMSON AND SECONDED URN THE MEETING AT 7:04 P.M. ALL WE		

**VOTE. MOTION PASSED 7-0.** 

## TOWN COUNCIL MEETING COUNCIL CHAMBERS

- 1 1. Call to Order
- 2 Chairperson Beers called the meeting to order at 7:01 p.m.
- 3 2. Introductory
- 4 Chairperson Beers read the introductory.
- 5 3. Pledge of Allegiance
- 6 Chairperson Beers led those present in the Pledge of Allegiance.
- 7 4. Roll Call
- 8 Answering the roll call were Chairperson Gary Beers, Vice Chairperson Charles Denault,
- 9 Councilors Frank Dennett, Russell White, Kenneth Lemont, Judith Spiller, and Jeffrey Thomson.
- 10 5. Agenda Amendment and Adoption
- 11 Chairperson Beers stated that Item 13i under New Business was withdrawn after further details
- were received. He requested to replace said item to read as follows: "The Kittery Town Council
- moves to accept resignation of Peter Whitman from the Kittery Port Authority."
- 14 Chairperson Beers requested that Item 16 be modified to read as "The Kittery Town Council
- moves to go into executive session with the Town Manager in accordance with 1 M.R.S. §405
- 16 (6) C, to discuss a land acquisition."
- 17 Agenda was adopted as amended.
- 18 6. Town Manager's Report
- 19 Town Manager Granfield reviewed her written report.
- 20 Secretary to Town Manager –Town Manager Granfield was informed that the applicant whom
- 21 was offered the part-time Secretary to Town Manager position withdrew her acceptance. Town
- Manager Granfield noted that a volunteer intern will be beginning work soon on a parking and
- 23 cemetery project.
- 24 Sewer Betterments Based on various feedback, staff is moving forward with ordinance
- changes and a meeting is scheduled for August 15<sup>th</sup> at Shapleigh School to discuss the proposal.
- The workshop held on July 18<sup>th</sup> has been televised on Channel 22 at various days and times,
- 27 however, there were some technical difficulties with website streaming. The issue is expected to
- 28 be resolved soon.
- 29 **Resident Issue** It was brought to Town Council's attention by an individual from Operation
- 30 Blessing Limited Partnership (OBLP) regarding street naming and a recommendation from
- Planning Board. It is an item that will come before the Town Council for approval. Based on
- 32 further review, there was not acceptance from all the abutters of the street name. After discussion
- with the Town Planner and Commissioner of Public Works, the matter is scheduled to be heard
- by Planning Board on July 24, 2016 and be forth coming on Town Council agenda. At that time,

- 35 the history of the status of the road will be explained and the Town Council will review for
- 36 acceptance.
- 37 Paving work Town Manager Granfield was advised that all road paving expected completion
- last week and striping will commence.
- 39 Fort Foster Fort Foster has been very active over the summer months. After a meeting with
- 40 the Parks Commission to discuss a variety of Town Council items, such as dog waste, senior
- passes, and drone issues, a workshop is scheduled for August 22, 2016.
- 42 Town Manager Granfield reviewed an item not included in her written report.
- Volunteer Citizen Panel Eaton Peabody Consulting Group is recruiting volunteers for the
- Town Manager selection and has already received applications. There is still time through the
- 45 month of August for any citizen interested in being on the interview panel. Interviews are
- 46 scheduled for September.
- 47 Vice Chairperson Denault received complaints regarding striping on Brave Boat Harbor Road.
- 48 Many small plastic dividers have been displaced and missing. He requested that the Town
- 49 Manager Granfield advise the Commissioner of Public Works.
- 50 7. Acceptance of Previous Minutes
- 51 Regular Meeting June 27, 2016
- The minutes were adopted as presented.
- 53 Regular Meeting July 11, 2016
- The minutes were adopted as presented.
- 55 8. Interviews for the Board of Appeals and Planning None.
- 56 9. All items involving the town attorney, town engineers, town employees or other town
- 57 consultants or requested officials.
- a. (070216-1) The Kittery Town Council moves to approve a resolution entitled
- 59 "Resolution Authorizing Redemption of Town's 2006 Bonds and Issuance of Refunding Bonds
- in Principal Amount not to Exceed \$1,140,000," as presented and an attested copy of said
- Resolution is to be included with the meeting minutes.
- 62 <u>Cindy Saklad, Kittery Finance Director</u>
- Ms. Saklad has had the pleasure of working with Joe Cuetara, Bond Advisor, on this matter. She
- 64 indicated as noted in her memorandum dated July 11, 2016 to Council, that the 2006 bonds,
- which finance renovations for the Town's fire station located at Haley Road and for the new fire
- station on Gorges Road, have met their 10-year mark and are ready for refinancing. She noted
- the Town will save approximately \$150,000 since the interest rate will decrease from 4.50% to
- 68 2.00%. She noted that Mr. Cuetara has further information regarding financing.
- 69 Councilor Dennett expressed concern that 2.00% be guaranteed and rather considered it an
- 70 estimation. Ms. Saklad supported that notion.
- 71 A MOTION WAS MADE BY COUNCILOR THOMSON THAT THE RESOLUTION OF

- 72 THE KITTERY TOWN COUNCIL ENTITLED "RESOLUTION AUTHORIZING
- 73 REDEMPTION OF TOWN'S 2006 BONDS AND ISSUANCE OF REFUNDING BONDS
- 74 IN PRINCIPAL AMOUNT NOT TO EXCEED \$1,140,000," BE APPROVED AS
- 75 PRESENTED AND AN ATTESTED COPY BE INCLUDED WITH THE MEETING
- 76 MINUTES, SECONDED BY COUNCILOR SPILLER.
- 77 Councilor Dennett believed when bonds reach their first redemption, it does a job on individual
- 78 investors to drop from 4.50% to estimated 2.00%. He stated in favor of the motion because it
- benefits the community. He figured the savings is over the remaining ten-year period of the
- 80 bond. Ms. Saklad confirmed that statement.
- 81 Councilor Thomson understood the expressed concern for the investors.
- 82 THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.
- 83 10. PUBLIC HEARINGS
- a. (070216-2) The Kittery Town Council moves to hold a public hearing and hereby ordains and adopts the 2016-2017 Sewer Budget.
- 86 Chairperson Beers opened the floor for public comment. Hearing none; Chairperson Beers
- 87 closed the public hearing.
- 88 A MOTION WAS MADE BY COUNCILOR THOMSON TO ORDAIN AND ADOPT
- 89 THE 2016-2017 SEWER BUDGET AS PRESENTED, SECONDED BY CHAIRPERSON
- 90 BEERS. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.
- b. (070216-3) The Kittery Town Council moves to hold a public hearing on an
- 92 application from Michelle Goodwin, 41 High Street, 1st Floor, Derry NH for a Victualer's
- 93 License for Just Chill'n Cool Treats and Beverages, Kittery Premium Outlet, 375 US Route 1.
- Chairperson Beers opened the floor for public comment. Hearing none; Chairperson Beers
- 95 closed the public hearing.
- 96 A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE THE
- 97 APPLICATION FROM MICHELLE GOODWIN, 41 HIGH STREET, 1ST FLOOR,
- 98 DERRY, NH FOR A VICTUALER'S LICENSE FOR JUST CHILL'N COOL TREATS
- 99 AND BEVERAGES, KITTERY PREMIUM OUTLET, 375 US ROUTE 1, SECONDED
- 100 BY COUNCILOR WHITE. THE MOTION PASSED BY A UNANIMOUS ROLL CALL
- 101 VOTE 7/0/0.
- c. (070216-4) The Kittery Town Council moves to hold a public hearing and hereby
- ordains amendments to Title 16 of the Kittery Town Code.
- 104 Chairperson Beers opened the floor for public comment. Hearing none; Chairperson Beers
- 105 closed the public hearing.
- 106 Councilor Thomson requested a detailed explanation of the amendments.
- 107 Chris Di Matteo, Kittery Town Planner
- Mr. Di Matteo referred to the executive summary prepared for July 11, 2016 Report to Town

- 109 Council. He proceeded to explain the amendments as follows:
- Item 1 This promotes development within the Shoreland Overlay Zone by permitting review and approval by the Code Enforcement Office. Currently, all Shoreland development goes before the Planning Board. The amendment proposes that any plan within the 150-foot setback could be approved by the Code Enforcement Officer.
- Item 2 This intends to clarify with a definition a provision regarding devegetated area.
- Item 3 This regards to post construction and storm water management plans. Pertaining to the Municipal Separate Storm Sewer System (MS4) permit, there are clarifications in the amendment that; align the ordinance language and requirements with other Towns, clarify the reference to trigger in Chapter 5 storm water rules, and reference the current maintenance plan agreement as a construction management plan.
  - Item 4 This proposes minor changes to the table guiding street standards to include a street, boundary radius for secondary collectors. The description of a collector conflicts with this language by stating that collectors between 200-800 trips are to be connected to other streets. This is not supposed to insinuate a dead end; thus the proposed amendment would resolve that issue with the definition of a collector.
  - Item 5 The Planning Board decided to remove any reference to the Kittery Foreside Design Committee, but retain the design standards. This would allow the Planning Board or Peer Review to conduct design review, instead of the committee.
- 128 A MOTION WAS MADE BY COUNCILOR THOMSON TO ORDAIN AND ADOPT
- 129 AMENDMENTS TO TITLE 16 OF THE KITTERY TOWN CODE AS PRESENTED.
- 130 SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A
- 131 UNANIMOUS ROLL CALL VOTE 7/0/0.
- 132 11. DISCUSSION

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- a. Discussion by members of the public (three minutes per person)
- 134 Barbara Bean, 87 Martin Road
- Ms. Bean thanked all for seeking an alternative, fair and equitable solution to the sewer
- betterment assessments.
- Ms. Bean felt pleasant to drive along newly resurfaced roads. She raised a series of questions as follows:
- 1. What is the total project cost of the paved roads?
  - 2. Is said cost accounted for in the sewer betterment project?
- Why are there sections of the road that were paved and not included in the betterment project?
  - 4. If the paving is part of the sewer betterment project cost that is being divided among the residents, why would it be included in the project cost?
- 5. Was the recent KACTS job on Route 236 conducted because it is a state road?
- Ms. Bean felt the sewer betterment project, as indicated in July 2013, intends to bring forth
- sewer lines, promote economic development and alleviate existing overboard discharge in an
- effort to provide an expanded tax base and increase tax revenue. As the ballot clearly stated,

- there is ultimately a benefit to the Town.
- 150 Tricia Robillard, Martin Road
- 151 Ms. Robillard echoed Ms. Bean's concerns. She added by reminding all the spirit and
- commentary of the May 2, 2016. She was most grateful of the proposed reductions and noted
- even with significant decreases in betterment assessments, it will still liquidate disposable
- income. She requested that when reviewing terms of a lien, consideration be taken for potential
- effects on credit and how creditors will account for liens.
- Ms. Robillard felt it is difficult in a small Town for Council members to completely avoid direct
- relationships that may pose a conflict of interest. She hoped that the Council resolves the current
- agenda item by finding no conflict of interest since the relative in question is not benefiting any
- more or less than another person.
- 160 Jennifer Taylor, Martin Road
- Ms. Taylor requested that post cards be sent to Kittery residents to announce details from the
- August 15, 2016 meeting. Many residents do not watch Channel 22 or read the paper, so the
- suggested notification would be important to those citizens.
- Ms. Taylor asked if the Town is preparing to dig up for natural gas pipelines. Chairperson Beers
- responded that he could not confirm or deny. She wondered and guessed that the digging would
- be completed prior to paving. She recalled an ordinance stating that digging a newly paved road
- cannot occur until a certain number of years, hence why she was questioning the digging.
- Sharon Clark, 63-65 Manson Road
- Ms. Clark felt that acreage should not be incorporated into the sewer betterment formula. She
- explained that she owns a small home on her eight acres of property. The land cannot be
- subdivided and is landlocked. The property value is higher than her neighbors, thus, her final
- betterment assessment was over \$42,000. She felt it was grossly unfair to punish owners that do
- not have equal potential for development. She recommended that Council propose a one-acre
- basis, regardless of the total amount of land area. Ms. Clark cited Councilor Dennett's statement
- explaining how past practice has assessed those properties in that situation. The assessment
- would consider the land where the homes are located and disregard the rest.
- Ms. Clark proposed that assessments take regard to individual units. She emphasized that each
- parcel must be evaluated separately since size, occupancy, and income potential varies amongst
- each unit.
- 180 George Dow IV, 1 Bartlett Road
- 181 Mr. Dow commended Chairperson Beers for his management and leadership skills in addressing
- the sewer betterment assessment fees.
- Mr. Dow explained from his perspective the history and timeline of the Rice Public Library
- relocation project. He was concerned that the most recent joint workshop between Council and
- the library should have aimed to educate, but rather it focused on lost revenues, impact of scenic
- views, and the Kittery Community Center annex proposal. He requested further clarity on what
- the straw poll vote mentioned by Council intends to decide.
- Mr. Dow thanked the recently retired Kittery Commissioner of Public Works for his service.

- 189 Leola Webb, 70 Martin Road
- 190 Mr. Webb raised three questions to Council as follows:
- 191 1. What is the likelihood of reducing the sewer betterment assessment fees to zero?
- 2. What is the time period for connection requirements to the sewer system?
- 3. What action has been taken to reduce or eliminate the construction connection cost for homeowners, which is separate from the betterment fees?
- 195 Willie Goodson, 15 Martin Road
- Mr. Goodson expressed discomfort with one Councilor acclaiming another Councilor as biased.
- He felt that citizens should rely on each Councilor being honest and upfront.
- 198 Wallace "Bud" Gerry, 27 Route 236
- Mr. Gerry indicated that the sewer pipe he was directed to connect to is located on the wrong
- side of the road from where he lives. The road is not a Town road and passes Route 236 property
- behind his home. His parcel is located roughly 120 feet away from Route 236 and wondered if he
- must connect to the newer system, even though his septic is about 50 years old.
- b. Response to public comment directed to a particular Councilor None.
- c. Chairperson's response to public comments
- 205 Chairperson Beers addressed no individual in particular that the sewer betterment is soon
- reaching resolution. Since the recent workshop, Town Manager Granfield and staff are producing
- details that will relate to all the parameters in question to include ordinance revisions, appeals
- 208 processes, deferral time periods for low-income citizens, and allowance for connection.
- 209 Chairperson Beers responded directly to public comments.
- 210 Ms. Bean The Town has been paving roads as an upgrade for the past two years under a bond
- approved by the Town. He will research further an answer for that breakdown.
- Ms. Robillard Her concerns for the conflict of interest were well taken.
- 213 Mr. Goodson The request for determination of a conflict of interest does not indicate any issue
- of bias. He explained that it is not an impugning of character, but rather a simple and technical
- consideration. This determination mitigates any potential, future litigation considerations for
- 216 improper decision making.
- Ms. Taylor Postcards are a great recommendation and he requested that Town Manager
- 218 Granfield arrange that.
- 219 Ms. Clark He felt that Ms. Clark raised several complicated issues that are interrelated and
- requests that her documentation be provided to answer her questions.
- 221 Mr. Dow He appreciated the compliment and thanked Mr. Dow for providing his explanation
- of the library relocation. He could not recall any reference to a straw vote and clarified that the
- statement he made was to have a discussion on August 18, 2016 regarding next steps for the
- 224 library proposal.
- 225 Mr. Gerry He requested further geographical details because his particular situation will
- require examination by staff. Mr. Gerry responded that he would do so.

- Mr. Webb The forthcoming details proposed by staff will provide answers to his questions. 227
- 228 which will be available on the website once completed. He mentioned it would be unlikely that
- 229 fees be reduced to zero because the Council has proposed a decrease to the most minimum level
- 230 that would still allow the Town to continue paying all other obligations. Chairperson Beers
- explained that currently the time period for connection requirements is 90 days upon notice and 231
- 232 that stipulation would likely remain unchanged. He stated that the scheduled meeting for August
- 15, 2016 addresses two amendments. First, the connection deferral for up to 10 years for those 233
- that have installed new septic within that timeframe. Secondly, the deferral for low income as 234
- eligibility for general administration assistance is a small, short-lived group of situations. Low 235
- income is less than 80% of area median income, which amounts to annual income of about 236
- 237 \$46,000 per individual, and \$96,000 per a family of eight. That would qualify for request for
- deferment. Chairperson Beers concluded that eliminating the connection requirement all together 238
- would not be in best interest of the community since one failed septic can pollute up to ten 239
- 240 square miles of ground water.
- 12. UNFINISHED BUSINESS - None. 241
- 242 13. **NEW BUSINESS**
- 243 a. Donations/gifts received for Council disposition – None.
- b. (070116-4) The Kittery Town Council moves to approve the disbursement warrants. 244
- 245 Town accounts payable of \$3,705.81.
- Town accounts payable of \$73,908.64. 246
- 247 Sewer account payable of \$34,016.14.
- Sewer account payable of \$1,503.85. 248
- 249 School accounts payable of \$50,038.73.
- School accounts payable of \$47,403.47. 250
- 251 Total of all disbursement warrants of \$210,576.64.
- 252
- Councilor Dennett stated that the Town and Sewer warrants are in order. Councilor Lemont that the School warrants are in order. 254

- A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE THE 255
- DISBURSEMENT WARRANTS, SECONDED BY COUNCILOR SPILLER. THE 256
- 257 MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.
- c. (070116-5) The Kittery Town Council moves to approve an application from Seacoast 258
- 259 Soul Models, 3 Ryle Way, Kittery, ME for a one time outside alcohol serving event, to be held at
- 60 Old Dennett Road on 8/21/16 from 9:30 a.m. to 12:00 p.m. 260
- 261 A MOTION WAS MADE BY COUNCILOR WHITE TO APPROVE AN APPLICATION
- FROM SEACOAST SOUL MODELS, 3 RYLE WAY, KITTERY, ME FOR A ONE TIME 262
- OUTSIDE ALCOHOL SERVING EVENT, TO BE HELD AT 60 OLD DENNETT ROAD 263
- 264 ON 8/21/16 FROM 9:30 A.M. TO 12:00 P.M, SECONDED BY COUNCILOR SPILLER.
- 265 Councilor Dennett requested further details be presented regarding the application.
- Whitney Blethen, Seacoast Soul Models 266

- Ms. Blethen explained the Seacoast Soul Models is a 501(3)(c) non-profit organization based in
- 268 Kittery. The organization has served mainly for middle school girls for about one year. The event
- referenced in the application is intended to be a fund raiser event. The event will host a yoga
- session, offer breakfast foods, and conduct a mimosa tasting. They will not use a caterer because
- they are receiving donations.
- Councilor Dennett indicated that no layout diagram was provided in the application. Ms. Blethen
- apologized for that omission and welcomed the owner of the property to further explain the
- layout of the event. She also clarified confusion regarding the business address.
- 275 Susan Neilson, Seacoast Soul Models
- Ms. Neilson explained that the property is large and includes a wooden path, labyrinth area, and
- enough space for several yoga mats. She thought that the property abuts Route 236 and suspected
- the noise level of the event to be low.
- 279 Councilor Spiller inquired on a plan for parking. Ms. Blethen expected that most guests will
- carpool to the event. She added that the road is private and that there is plenty of on-street
- parking. Vice Chairperson Denault affirmed that parking would not be an issue.

#### THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

- d. (070216-7) The Kittery Town Council moves to vote its nomination for Vice President
- 284 (1 term) and Executive Committee Members (3 year terms) as proposed by the MMA
- Nominating Committee.
- 286 Chairperson Beers read the report into the record.
- 287 A MOTION WAS MADE BY COUNCILOR THOMSON TO VOTE ITS NOMINATION
- 288 FOR VICE PRESIDENT (1 TERM) AND EXECUTIVE COMMITTEE MEMBERS (3
- 289 YEAR TERMS) AS PROPOSED BY THE MMA NOMINATING COMMITTEE,
- 290 SECONDED BY COUNCILOR WHITE.
- 291 Councilor Dennett noted there is no choice involved in the voting because all the candidates are
- 292 predetermined.
- Vice Chairperson Denault stated his abstention from the vote as he did not have enough
- background knowledge of the candidates and wanted to avoid any erroneous vote.
- 295 THE MOTION PASSED BY A ROLL CALL VOTE 4/0/3, WITH VICE CHAIRPERSON
- 296 DENAULT, COUNCILOR DENNETT, AND CHAIRPERSON BEERS ABSTAINING.
- e. (070216-8) The Kittery Town Council moves to release funds in the amount of \$3,500
- 298 from unassigned surplus and to deposit said funds into account #101740-68427 Expense Self
- 299 Insurance Claims Coverage, to cover the cost of the deductible for an insurance claim.
- 300 A MOTION WAS MADE BY COUNCILOR SPILLER TO RELEASE FUNDS IN THE
- 301 AMOUNT OF \$3,500 FROM UNASSIGNED SURPLUS AND TO DEPOSIT SAID
- 302 FUNDS INTO ACCOUNT #101740-68427 EXPENSE SELF INSURANCE CLAIMS
- 303 COVERAGE, TO COVER THE COST OF THE DEDUCTIBLE FOR AN INSURANCE
- 304 CLAIM, SECONDED BY CHAIRPERSON BEERS.

- Vice Chairperson Denault asked for more information regarding the claim. Chairperson Beers
- 306 noted that the information is protected under the Privacy Act. Town Manager Granfield
- responded to Councilor Thomson that nothing can be conveyed since it is a personnel situation.
- 308 Councilor Dennett stated the personnel code is designed to protect the individual. However, the
- information can be provided without the name. He felt it is necessary to at least know what
- 310 department.
- 311 Councilor White asked if any information could be conveyed in a non-public executive session.
- 312 Chairperson Beers reminded that the identity of the employee is classified.
- 313 Councilor White noted that in past practice, the Council usually is provided general information
- for what the claim is for. He stated his confidence that the Finance Director and Town Manager
- determined it a necessary and proper payment. Town Manager Granfield confirmed to Vice
- 316 Chairperson Denault that the payment is necessary.

#### 317 THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

- f. (070216-9) The Kittery Town Council moves to approve a one day extension of the
- service area of the premises externally on the current liquor license for The Black Birch, from
- 320 3:00 p.m. to 10:00 p.m. on July 31, 2016, in celebration of their 5th Anniversary.
- 321 A MOTION WAS MADE BY COUNCILOR WHITE TO APPROVE A ONE DAY
- 322 EXTENSION OF THE SERVICE AREA OF THE PREMISES EXTERNALLY ON THE
- 323 CURRENT LIQUOR LICENSE FOR THE BLACK BIRCH, FROM 3:00 P.M. TO 10:00
- P.M. ON JULY 31, 2016, IN CELEBRATION OF THEIR 5TH ANNIVERSARY.
- 325 SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A UNANIMOUS
- 326 ROLL CALL VOTE 7/0/0.
- g. (070216-10) The Kittery Town Council moves to appoint a representative to meet with
- 328 the Chair of the Parks Commission to interview Richard Brooks for appointment to that board as
- 329 a full member until 12/31/19.
- 330 A MOTION WAS MADE BY COUNCILOR SPILLER TO APPOINT COUNCILOR
- 331 THOMSON TO MEET WITH THE CHAIR OF THE PARKS COMMISSION TO
- 332 INTERVIEW RICHARD BROOKS FOR APPOINTMENT TO THAT BOARD AS A
- FULL MEMBER UNTIL 12/31/19, SECONDED BY COUNCILOR DENAULT. THE
- 334 MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.
- h. (070216-11) The Kittery Town Council moves to appoint a representative to meet with
- the Chair of the KCC Board of Directors to interview Kristi Mathieson for appointment to that
- 337 board until 12/31/19.
- 338 Councilor Dennett asked if the appointment could be made without interview. Chairperson Beers
- responded that only the Economic Development Committee members can be appointed without
- 340 interview.
- 341 A MOTION WAS MADE BY COUNCILOR SPILLER TO APPOINT CHAIRPERSON
- 342 BEERS TO MEET WITH THE CHAIR OF THE KCC BOARD OF DIRECTORS TO
- 343 INTERVIEW KRISTI MATHIESON FOR APPOINTMENT TO THAT BOARD UNTIL

- 344 12/31/19, SECONDED BY COUNCILOR DENAULT. THE MOTION PASSED BY A
- 345 UNANIMOUS VOICE VOTE 7/0/0.
- i. (070216-12) The Kittery Town Council moves to accept resignation of Peter Whitman from the Kittery Port Authority.
- 348 A MOTION WAS MADE BY COUNCILOR SPILLER TO ACCEPT RESIGNATION OF
- 349 PETER WHITMAN FROM THE KITTERY PORT AUTHORITY WITH REGRET,
- 350 SECONDED BY COUNCILOR LEMONT. THE MOTION PASSED BY A UNANIMOUS
- 351 ROLL CALL VOTE 7/0/0.
- j. (070216-13) The Kittery Town Council moves to schedule a public hearing for August
- 8, 2016, to ordain amendments to Title 13 of the Kittery Town Code.
- 354 A MOTION WAS MADE BY COUNCILOR THOMSON TO SCHEDULE A PUBLIC
- 355 HEARING FOR AUGUST 8, 2016, TO ORDAIN AMENDMENTS TO TITLE 13 OF THE
- 356 KITTERY TOWN CODE, SECONDED BY COUNCILOR WHITE. THE MOTION
- 357 PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.
- 358 k. (070216-14) The Kittery Town Council moves to schedule a public hearing on August
- 8, 2016 to ordain by ordinance to follow Title 21-A §722-A Determination of Declared Write-in
- 360 Candidate.
- 361 A MOTION WAS MADE BY COUNCILOR THOMSON TO SCHEDULE A PUBLIC
- 362 HEARING ON AUGUST 8, 2016 TO ORDAIN BY ORDINANCE TO FOLLOW TITLE
- 363 21-A §722-A DETERMINATION OF DECLARED WRITE-IN CANDIDATE,
- 364 SECONDED BY COUNCILOR WHITE. THE MOTION PASSED BY A UNANIMOUS
- **365 VOICE VOTE 7/0/0.**
- 1. (070216-15) The Kittery Town Council moves to resolve a request for conflict of
- interest determination.
- The agenda item was requested by Councilor Thomson due to Vice Chairperson Denault's
- family member affected by the sewer betterment project.
- 370 A MOTION WAS MADE BY COUNCILOR THOMSON TO EXCLUDE VICE
- 371 CHAIRPERSON DENAULT FROM FURTHER VOTING ON ANY MATTER
- 372 PERTAINING TO THE SEWER BETTERMENT ASSESSMENT PROJECT,
- 373 SECONDED BY COUNCILOR SPILLER.
- Vice Chairperson Denault understood that this request was reviewed and billed by the Town
- attorney and asked what that total cost was. He noted that the Town attorney determined no
- 376 conflict of interest. He reminded he has freely admitted and previously stated into the record that
- his brother was a homeowner affected by the sewer betterment assessments.
- Councilor Thomson felt it was not a question of honesty or integrity. The decision would likely
- not change whether six or seven Councilors voted. He felt that the Charter is clear with its
- definition of financial conflict of interest and he only wanted to ensure that the decision
- regarding the sewer betterment is as transparent and clean as possible.
- 382 Councilor Spiller saw Vice Chairperson Denault as an effective advocate for residents. She

- echoed what Councilor Thomson mentioned regarding the difference in one Councilor voting.
- 384 She thought it is incumbent on the Council to be as clean and open as can be.
- Councilor Lemont explained while serving the legislature, it was explained to him by the State of
- Maine Attorney General that there must exist a direct benefit for a conflict of interest to exist. He
- thought that Vice Chairperson Denault could not potentially benefit from the situation.
- Councilor White considered the relative as one of a class of beneficiaries. With that, he did not
- see any conflict of interest and preferred to leave the decision with Vice Chairperson Denault.
- Vice Chairperson Denault confirmed to Councilor Dennett that he does not have an interest in
- 391 his relative's property by deed nor financed the property.
- Chairperson Beers respected Councilor Dennett's previous question, which shows that no direct
- benefit exists. He stated that his vote would be in the negative since at least 10% of a contract or
- 394 ownership must exist.
- 395 Councilor Dennett suggested that Vice Chairperson Denault recuse himself in the event that the
- relative files for a hearing. Vice Chairperson Denault agreed that would be the right course of
- 397 action.
- 398 THE MOTION FAILED TO PASS BY A ROLL CALL VOTE 2/4/0 WITH COUNCILOR
- 399 WHITE, COUNCILOR LEMONT, COUNCILOR DENNETT, AND CHAIRPERSON
- 400 BEERS OPPOSED.
- 401 m. (070216-16) The Kittery Town Council moves to approve amendments to the Wood
- 402 Island Repair, Maintenance and Use Agreement.
- 403 Chairperson Beers referenced Enclosure 3 in the Report to Town Council dated June 27, 2016.
- 404 A MOTION WAS MADE BY COUNCILOR WHITE TO APPROVE AMENDMENTS
- 405 TO THE WOOD ISLAND REPAIR, MAINTENANCE AND USE AGREEMENT AS
- 406 PRESENTED, SECONDED BY COUNCILOR DENAULT.
- 407 Councilor Dennett saw no required bond nor any indication that either parties must hold fire or
- 408 flood insurance. Chairperson Beers confirmed that statement.
- 409 Chairperson Beers further explained that the summation of this revision included minor
- clarifications and revisions derived from Town Council approved changes on the January 25,
- 2016 document. It was his understanding the bond and insurance requirements related to the
- contractual obligations held by the Wood Island Life Saving Station Association, as a recipient
- of those grants, would cover those mentioned provisions. Thus, it was deemed unnecessary to be
- 414 included in the current agreement.
- 415 Councilor Dennett stated his intention to vote in the negative.
- 416 Councilor Spiller asked whether any attorney had reviewed this document since it was last
- proposed and wondered whether that review would be useful. Chairperson Beers replied in the
- 418 negative because only the National Parks Program Service Manager approval is required for
- existing agreement modifications. He confirmed to Councilor Spiller that the proposed
- amendments include only minor changes and no substantive changes.

- 421 Councilor Thomson also sought legal review. He expressed various concerns regarding the
- documentation and asked why the Council did not receive a formal written response, given that it
- 423 is a federal agency. Chairperson Beers noted in actual fact that the Town attorney expressed no
- interest in reviewing the agreement after January 2016. The approved agreements were dated
- January 25, 2016 and the letterhead document from the National Parks Service Program Manager
- 426 is dated February 19, 2016 upon delivery of signed copies to her, she will conduct final review
- and ensure they meet the prerequisite conditions via e-mail.
- 428 Vice Chairperson Denault considered an e-mail as an official document.
- Councilor Spiller added to her previous statement to place emphasis on having an attorney
- perform review, not only the Town attorney.
- 431 Councilor White felt that the agreement was well vetted and understood that Attorney
- 432 McEachern had the desire to move away from the contract. He thanked the working group, Town
- Manager Granfield, WILSSA, and Ms. LaForest. He hoped that the amendment is approved, so
- 434 that the current project can continue.
- Councilor Thomson indicated the e-mail provided was dated June 24, 2016, yet the final
- document June 27, 2016. Chairperson Beers claimed it was an administrative error. He believed
- that the NPS Program Manager and WILSSA understood the terms of the amendment dated June
- 438 27, 2016 and offered to request confirmation, if necessary.
- 439 Councilor Thomson cited written language regarding voluntary termination in the event of
- significant damages from unforeseen circumstances indicated on Page 7, Item 18. Chairperson
- Beers clarified that if cost for damages exceed 75%, WILSSA can terminate the contract without
- 442 penalty.
- Chairperson Beers reminded that failure to approve the amendment to the contract would result
- in the existing contract to remain in effect.
- THE MOTION PASSED BY A ROLL CALL VOTE 4/3/0 WITH COUNCILOR
- 446 SPILLER, COUNCILOR DENNETT, AND COUNCILOR THOMSON OPPOSED.
- n. (070216-17) The Kittery Town Council moves to approve revisions to the Wood
- 448 Island Concession Agreement.
- Chairperson Beers indicated that the reference document is titled Enclosure 2, Report to Town
- Council. He noted typographical error at lines 314-315 to replace "1,000,000" with "100,000."
- 451 A MOTION WAS MADE BY COUNCILOR DENAULT TO APPROVE AMENDMENTS
- 452 TO THE WOOD ISLAND REPAIR, MAINTENANCE AND USE AGREEMENT,
- 453 SECONDED BY COUNCILOR WHITE.
- Councilor Dennett expressed concern that the contract does not indicate it is governed by the
- State of Maine. Chairperson Beers indicated that according to the NPS Program Manager, it is
- 456 governed under federal law. Councilor Dennett recommended that the Town not be at risk for
- possible exemptions from liability under Maine law, thus, the language should be included in the
- 458 contract. Chairperson Beers understood that Maine laws would subsequently govern a contract
- executed between two parties in the State of Maine. Councilor White suggested that the terms be

## TOWN COUNCIL MEETING COUNCIL CHAMBERS

- incorporated into an addendum after voting.
- Councilor Thomson stated his concern that the document is dated July 11, 2016 and the e-mail
- from Ms. LaForest is dated June 24, 2016. He felt there is no substantiating evidence that shows
- Ms. LaForest reviewed the document on June 24, 2016. Chairperson Beers responded that he
- would seek confirmation and expressed regret for the document dating errors.
- Councilor Thomson cited verbiage on Page 3, Item C and questioned what would result if a
- maritime museum is not completed. Councilor Beers replied that the concession agreement is not
- engaged unless the museum is completed under the repair and maintenance contract.
- Councilor Thomson referenced and questioned the statement under Item D, Section 4 regarding
- public access to the pier and limitations on allowed tie up periods. Chairperson Beers indicated
- that Wood Island would be fully available for public access at all times. The concession
- agreement does not guarantee mooring docking or other any other than access at large.
- Councilor Thomson reaffirmed that the document had not received legal review. Councilor
- Spiller felt legal review would help to alleviate the issues raised. Chairperson Beers further
- clarified the detailed terms and conditions of pier mooring and public access times.
- Councilor Spiller expected that if WILSSA hosts an event on the island that is not part of the life
- saving station, then they pledge public access during that event. Chairperson Beers affirmed that
- 477 to be correct.
- 478 THE MOTION PASSED BY A ROLL CALL VOTE 4/3/0 WITH COUNCILOR
- 479 THOMSON, COUNCILOR DENNETT, AND COUNCILOR SPILLER OPPOSED.
- 480 14. COUNCILOR ISSUES OR COMMENTS
- Councilor Lemont requested that concerns regarding activities on Kittery Point bridge be
- addressed. People fishing off the bridge are reported as leaving litter and being disrespectful.
- Chairperson Beers asked Town Manager Granfield to research the situation.
- Councilor Spiller noted the same complaint mentioned by Councilor Lemont. A number of cars
- and large groups of people have been reported standing in the middle of Crockett Neck Road.
- Vice Chairperson Denault followed up with Town Manager Granfield regarding the manhole on
- South Eliot Road that he mentioned at the previous meeting. She replied that it was looked at and
- will be repaired after all work has completed.
- Vice Chairperson Denault announced those Kittery residents who have recently passed as
- 490 follows:
- Evelyn L. Lawrence
- Charles Patrick "Mickey" Gaffney Jr
- Mary Daigle Dennett
- Richard "Rick" Rossiter
- Thomas R. Wenck
- Gerald F. Walker –
- Barbara (Pettigrew) Rowell

- COUNCIL CHAMBERS • Anne C. Cullen 498 • Robert Wayne "Bob" Chick 499 Carol Scism 500 Louise E. Bocchino 501 Barbara Rowell 502 • Barbara A. Nutter 503 • Raymond Dennis VanGorder, Sr 504 • Kathleen "Dwane" Battcock 505 William J. McLaughlin 506 Vice Chairperson Denault responded to the concerns raised involving a conflict of interest that 507 508 he had no specific issues to the statements made. 509 Vice Chairperson Denault stated his recollection of how the Town handled a federal grant received in 1969 to establish the Kittery Sewer Department. He stated various concerns 510 regarding that project in comparison to the current sewer betterment project. 511 Councilor White asked whether the Town has researched the potential benefits of combining into 512 one group all the residents that plan seek sewer connection construction. 513 514 Councilor White recommended that rank voting be considered for board and commission 515 nominations. He thought it may help to alleviate the difficulties that have been encountered. 516 Councilor Thomson could not attest to Vice Chairperson Denault's statement regarding his personal property ownership. 517 Councilor Thomson asked if MMA or any Town auditing firm could conduct an independent 518 financial review of the sewer betterment process. 519 520 Councilor Thomson said that an individual suggested that the sidewalk at the water/inlet side near Gate 2 of PNSY could be removed and turned into a turning lane. He asked if the DPW 521 could consider that recommendation. 522 523 Chairperson Beers cited an e-mail from Sean Harris addressed to Shelley Bishop and Bob Marchi, both Kittery Code Enforcement Officers, to thank the staff for addressing old issues. The 524 letter mentioned that the process went smoothly to resolve issues building permits for a particular 525 526 parcel. 527
  - 15. COMMITTEE AND OTHER REPORTS
- 528 a. Communications from the Chairperson – None.
- 529 b. Committee Reports – None.
- 16. 530 **EXECUTIVE SESSION**
- 531 a. (070216-18) The Kittery Town Council moves to go into executive session with the
- Town Manager in accordance with 1 M.R.S. §405 (6) C, to discuss a land acquisition 532
- 533 A MOTION WAS MADE BY COUNCILOR WHITE TO GO INTO EXECUTIVE
- SESSION AT 8:53 P.M. WITH THE TOWN MANAGER IN ACCORDANCE WITH 1 534

## TOWN COUNCIL MEETING COUNCIL CHAMBERS

UNAPPROVED JULY 25, 2016

- 535 M.R.S. §405 (6) C TO DISCUSS A LAND ACQUISITION, SECONDED BY
- 536 COUNCILOR THOMSON. THE MOTION PASSED BY A UNANIMOUS ROLL CALL
- 537 **VOTE 7/0/0.**
- 538 A MOTION WAS MADE BY COUNCILOR THOMSON TO COME OUT OF
- 539 EXECUTIE SESSION AT 9:05 P.M., SECONDED BY COUNCILOR WHITE. THE
- 540 MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.
- 541 17. ADJOURNMENT
- 542 A MOTION WAS MADE BY COUNCILOR THOMSON TO ADJOURN THE MEETING
- 543 AT 9:06 P.M., SECONDED BY COUNCILOR WHIT. THE MOTION PASSED BY A
- 544 UNANIMOUS VOICE VOTE 7/0/0.
- Submitted by Marissa Day, Minutes Recorder, on July 29, 2016.
- 546 Disclaimer: The following minutes constitute the author's understanding of the meeting. While
- 547 every effort has been made to ensure the accuracy of the information the minutes are not intended
- 548 as a verbatim transcript of comments at the meeting, but a summary of the discussion and
- 549 actions that took place. For complete details, please refer to the video of the meeting on the
- 550 *Town of Kittery website at http://www.townhallstreams.com/locations/kittery-maine.*

## Memorandum

TO:

**TOWN COUNCIL** 

FROM:

MARYANN PLACE, TOWN CLERK

DATE:

**AUGUST 4, 2016** 

RE:

**DECLARED WRITE-IN CANDIDATES** 

There was a concern brought to my attention regarding Title 21-A §696 (2) E - if a voter writes in a write-in vote who has not filed a declaration of write-in candidacy, the vote for that office may not be counted, except in accordance with section §737-A 2-A. The last paragraph in that section speaks to recounts and a \$10,000 deposit, however in speaking with MMA legal I was told this section of the law does not apply in this case. Title 30-A §2501 (3) A only allows municipalities to follow the specific sections listed in 3 A, which are Title 21-A §696 (2) C and Title 21-A §722-A for adopting the declared write-in provision, so Title 21-A §737-A 2-A, does not apply.

/mp



### TOWN OF KITTERY

## 200 Rogers Road, Kittery, ME 03904 Telephone: 207-475-1329 Fax: 207-439-6806

#### REPORT TO TOWN COUNCIL

Meeting Date:

July 25, 2016

From:

Maryann Place, Town Clerk

Subject:

Ordinance Adoption

Councilor Sponsor:

Councilor Beers

#### **EXECUTIVE SUMMARY**

A new law on write-in voting allows a municipality, by vote of its legislative body at least 90 days before the next annual election, opt to require local write-in candidates to declare their candidacy by filing with the municipal clerk at least 45 days before the election, as now required for State write-in candidates by Title 21-A §722-A.

#### STATEMENT OF NEED

To follow Title 21-A for write-in candidates will allow the Election process to be consistent with State Elections and save time for ballot clerks tallying write-in votes, as well as the Warden and Clerk processing the return of votes cast earlier.

#### BACKGROUND

When there are declared write-in candidates, those names are provided to the ballot clerks when they are separating the ballots. The declared write-in candidates are the only write-ins that are counted.

#### FACTS BEARING ON THE EQUATION

We are required to process the return of votes for the State Election first, then the Municipal return. That creates late results for citizens waiting for the Municipal Election outcome. Following Title 21-A for declared write-in candidates, would allow the Municipal results to be available sooner. Voters would be informed earlier in the process of who the write-in candidates are and a list of declared write-in candidates would also be posted with sample ballots.

#### **CURRENT SITUATION**

Currently, write-in candidates don't have to declare and a voter can write in any person's name as a write-in candidate. Consequently, depending on the Election turn out there can be anywhere from 25-35 or more, individual names listed on ballots as write-in candidates. Each set of ballot clerks both list every write-in name (as long as it is a qualified vote) and marks by hen scratches for every vote they receive. Both ballot clerks counts must agree, otherwise they start counting all over again until they agree. Unfortunately that happens a lot, which means it takes longer to provide the Election results.

#### PROPOSED SOLUTION/RECOMMENDATION

It is recommended to adopt an ordinance to follow Title 21-A for declared write-in candidates to allow the write-in candidate process to be consistent with State Elections.

#### **Maine Revised Statutes**

# Title 30-A: MUNICIPALITIES AND COUNTIES HEADING: PL 1987, c. 737, Pt. A, §2 (new)

Chapter 121: MEETINGS AND ELECTIONS HEADING: PL 1987, c. 737, Pt. A, §2 (new)

### §2501. APPLICABILITY OF PROVISIONS

Except as otherwise provided by this Title or by charter, the method of voting and the conduct of a municipal election are governed by Title 21-A. [1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD); 1989, c. 104, Pt. D, §2 (RPR).]

1. Clerk to perform duties of Secretary of State. When Title 21-A applies to any municipal election, the municipal clerk shall perform the duties of the Secretary of State prescribed by Title 21-A.

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[ 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 104, Pt. D, §2 (NEW) .]
```

**2. Qualifications for voting.** The qualifications for voting in a municipal election conducted under this Title are governed solely by Title 21-A, section 111.

```
[ 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 104, Pt. D, §2 (NEW) .]
```

- 3. Determining and counting write-in votes. A municipality may choose the method of determining and counting write-in votes according to this subsection. Once a municipality has voted to accept the option under this subsection, the option applies to all municipal elections until the municipal officers hold a public hearing and the legislative body of the municipality votes to rescind the option at least 90 days before the next election of candidates by secret ballot.
  - A. After the municipal officers hold a public hearing, at least 90 days prior to an election of candidates by secret ballot, the legislative body of a municipality may vote to be governed by the provisions of Title 21-A, section 696, subsection 2, paragraph C and Title 21-A, section 722-A. Votes for a write-in candidate are counted only if that candidate has filed a timely declaration of write-in candidacy with the municipal clerk in accordance with Title 21-A, section 722-A, except that votes for write-in candidates who have not filed a declaration of write-in candidacy must be counted if:
    - (1) The printed ballot does not include a properly nominated candidate for the office; or
    - (2) A properly nominated candidate for the office listed on the ballot withdraws from the race before or on election day. [2015, c. 160, §1 (NEW).]
  - B. In a municipality that has not voted under paragraph A to be governed by Title 21-A, section 696, subsection 2, paragraph C and Title 21-A, section 722-A, votes cast for write-in candidates must be counted if:
    - (1) The printed ballot does not include a properly nominated candidate for the office;
    - (2) A properly nominated candidate for the office listed on the ballot withdraws from the race before or on election day; or
    - (3) The number of write-in votes for an office as determined by a machine count or initial hand count exceeds the number of votes in that count for a candidate printed on the ballot.

Votes for write-in candidates may be counted even if none of the criteria listed in subparagraphs (1) to (3) are met in a municipality that has not voted to be governed by Title 21-A, section 696, subsection 2, paragraph C and Title 21-A, section 722-A. [2015, c. 160, §1 (NEW).]

Nothing in this subsection requires a municipal clerk to count or tally write-in votes for a fictitious person, a deceased person or a person from outside the municipality when residency is a qualification of office or who is otherwise not qualified to be a candidate for the office for which the person is a write-in candidate.

```
[ 2015, c. 160, §1 (NEW) .]

SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD).

1989, c. 104, §§C8,10 (AMD). 1989, c. 104, §D2 (RPR). 2015, c. 160, §1 (AMD).
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#### **Maine Revised Statutes**

#### **Title 21-A: ELECTIONS**

### **Chapter 9: CONDUCT OF ELECTIONS**

## §696. CHALLENGED, DEFECTIVE OR VOID BALLOTS

The counting of ballots is governed by the following provisions. [1985, c. 161, §6 (NEW).]

1. Challenged ballot. A challenged ballot must be counted the same as a regular ballot. The validity of a challenged ballot need not be determined unless it affects the results of an election.

If the challenged ballot affects the result of an election, the envelope containing the challenge certificate and the signed affidavit under section 673, subsection 1 must be submitted to the Supreme Judicial Court and its validity must be determined, except when final determination of the election of a candidate is governed by the United States Constitution.

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[ 2003, c. 395, §5 (AMD) .]
```

- 2. Invalid vote. A vote for an office, candidate or question held to be invalid by the warden, ward clerk or deputy warden may not be counted for that office, candidate or question as follows.
  - A. If a voter marks more names for an office than there are vacancies to be filled or more choices for a question than are permitted, the voter's vote for that office or question may not be counted. [2009, c. 253, §32 (AMD).]
  - B. If a voter marks the voter's ballot in such a manner that it is impossible to determine the voter's choice, the voter's vote for the office or question concerned may not be counted. [1997, c. 436, \$101 (AMD).]
  - C. If a voter marks a write-in indicator for an office, but does not write the name of a declared write-in candidate in the blank space provided to the right of the write-in indicator, that vote for that office may not be counted, unless a determination of choice under subsection 4 is possible. [2009, c. 253, §32 (AMD).]
  - D. If a voter writes in the name of a declared write-in candidate in the write-in space pursuant to section 691, but does not mark the write-in indicator, that vote for that office may not be counted. [2009, c. 253, §32 (AMD).]
  - E. If a voter writes in a write-in space the name of a person who has not filed a declaration of write-in candidacy as provided by section 722-A, the vote for that office may not be counted except in accordance with section 737-A, subsection 2-A. [2009, c. 253, §32 (AMD).]
  - F. The warden, ward clerk or deputy warden shall write "Invalid vote" on the ballot and the reason the vote is invalid beside the office, candidate or question for which it is invalid and shall sign it and replace the ballot with the other ballots, to be counted for other offices or questions. [2001, c.310, g39 (AMD).]

```
[ 2009, c. 253, §32 (AMD) .]
```

- Defective ballots. A ballot held to be defective by the warden, ward clerk or deputy warden may not be counted.
  - A. A ballot that is not prepared in accordance with the requirements of this Title is defective. [2001, c. 310, §40 (AMD).]
  - B. The warden, ward clerk or deputy warden shall write "Defective ballot" and the reason that the ballot is defective on the ballot and shall sign it. The election official shall then segregate the defective ballot

with any other defective ballots in an envelope labeled "Defective ballots" and shall package and return the envelope of segregated ballots in accordance with section 698. The Secretary of State shall provide the clerk of each municipality with either a label and instructions on proper handling of defective ballots or a special envelope printed with this label and instructions. [2003, c. 298, §2 (AMD).]

C. A ballot is not defective if the Secretary of State has given prior approval for its use at the election. [2005, c. 404, §4 (NEW).]

```
[ 2005, c. 404, §4 (AMD) .]
```

**4. Determination of choice possible.** If a voter marks the voter's ballot in a manner that differs from the instructions at the top of the ballot but in such a manner that it is possible to determine the voter's choice, then the vote for the office or question concerned must be counted.

```
A. [2001, c. 310, §41 (RP).]
[ 2005, c. 404, §5 (AMD) .]
```

- Void ballots. A ballot held to be void by the warden, ward clerk or deputy warden may not be counted.
  - A. A ballot on which a voter has made a distinguishing mark is void. [2005,  $\,c.\,404$ , §6 (AMD).]
  - B. The warden, ward clerk or deputy warden shall write "Void ballot" and the reason that the ballot is void on the ballot and shall sign it. The election official shall then segregate the void ballot with any other void ballots in an envelope labeled "Void ballots" and shall package and return the envelope of segregated ballots in accordance with section 698. The Secretary of State shall provide the clerk of each municipality with either a label and instructions on proper handling of void ballots or a special envelope printed with this label and instructions. [2003, c. 298, §3 (AMD).]

```
[ 2005, c. 404, §6 (AMD) .]
```

6. Rules. The Secretary of State is authorized to adopt rules pursuant to Title 5, chapter 375, subchapter 2-A for determining voter intent based on relevant case law and provisions of this Title. These rules must be used by election officials in tabulating the results of state and local elections and in all recounts conducted pursuant to this Title. A copy of the rules must be included with the instructional materials provided to the clerk, registrar and election officials in each municipality pursuant to section 605-A, subsection 1 and must be used by the Secretary of State in the training of election officials pursuant to section 505. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

```
[ 2011, c. 342, §25 (AMD) .]

SECTION HISTORY

1985, c. 161, §6 (NEW). 1985, c. 357, §§4,19 (AMD). 1993, c. 473, §23 (AMD). 1993, c. 473, §46 (AFF). 1995, c. 459, §64 (AMD). 1997, c. 436, §§100-102 (AMD). 2001, c. 310, §§39-42 (AMD). 2003, c. 298, §§2,3 (AMD). 2003, c. 395, §5 (AMD). 2005, c. 404, §§3-7 (AMD). 2005, c. 568, §16 (AMD). 2007, c. 455, §38 (AMD). 2009, c. 253, §§32, 33 (AMD). 2011, c. 342, §25 (AMD).
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#### **Maine Revised Statutes**

### Title 21-A: ELECTIONS

Chapter 9: CONDUCT OF ELECTIONS

#### §722-A. DETERMINATION OF DECLARED WRITE-IN CANDIDATE

To be considered a declared write-in candidate, a person must file a declaration of write-in candidacy with the Secretary of State, on a form approved by the Secretary of State, on or before 5 p.m. on the 45th day prior to the election. The candidate must meet all the other qualifications for that office. [2009, c. 253, §37 (AMD).]

SECTION HISTORY
1999, c. 426, §24 (NEW). 2007, c. 455, §40 (AMD). 2009, c. 253, §37 (AMD).

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## Maine Revised Statutes

Title 21-A: ELECTIONS

**Chapter 9: CONDUCT OF ELECTIONS** 

**Subchapter 3: POST ELECTION PROCEDURE** 

**Article 3: INSPECTION AND RECOUNT** 

## §737-A. Recount

Once a recount is requested, the Secretary of State shall notify the State Police, who shall take physical control of all ballots and related materials involved in the recount as soon as possible. [2007, c. 515, §8 (AMD).]

The State Police shall store and maintain exclusive control over the ballots and other materials pending and during the recount except when the counting is being conducted by the Secretary of State. [1993, c. 473, §31 (NEW); 1993, c. 473, §46 (AFF).]

A candidate who is the apparent loser and who desires a recount must file with the Secretary of State a written request for a recount within 5 business days after the election. The recount is held under the supervision of the Secretary of State, who shall allow the candidate's representatives or counsel to recount the ballots. The candidate may not act as a counter of ballots. [2007, c. 515, \$9 (AMD).]

If, after the official tabulation is submitted to the Governor, the apparent winner is determined the losing candidate, that candidate may request another recount within 3 business days after the date the Governor receives the tabulation. [1993, c. 473, §31 (NEW); 1993, c. 473, §46 (AFF).]

1. Deposit for recount. All deposits required by this section must be made with the Secretary of State when a recount is requested by a losing candidate or an undeclared write-in candidate. Once the State Police have taken custody of the ballots and other election materials from the municipalities, the deposit made by the candidate requesting the recount is forfeited to the State if the resulting count fails to change the outcome of the election. If the recount reverses the election, the deposit must be returned to the candidate requesting the recount. The amount of the deposit is calculated as follows.

A. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is 2% or less of the total votes cast for that office, a deposit is not required. [2003, c. 447, §25 (AMD).]

- B. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than 2% and less than or equal to 4% of the total votes cast for that office, the deposit is \$500. [2003, c. 447, \$25 (AMD).]
- C. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than 4% and less than or equal to 6% of the total votes cast for that office, the deposit is \$1,000. [2003, c. 447, \$25 (AMD).]
- D. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than 6% and less than or equal to 8% of the total votes cast for that office, the deposit is \$2,500. [2003, c. 447, \$25 (NEW).]
- E. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than 8% and less than or equal to 10% of the total votes cast for that office, the deposit is \$5,000. [2003, c. 447, \$25 (NEW).]
- F. If the percentage difference shown by the official tabulation between the leading candidate and the requesting candidate is more than 10% of the total votes cast for that office, the deposit is \$10,000. [2003, c. 447, \$25 (NEW).]

```
[ 2009, c. 253, §42 (AMD) .]
```

2. Recount request. If a ballot contains the names of state and local candidates or questions, the Secretary of State shall determine which requests for recount must be honored first when more than one request is presented.

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[ 1993, c. 473, §31 (NEW); 1993, c. 473, §46 (AFF) .]
```

2-A. Recount for write-in candidates. For the purposes of this section, a declared write-in candidate who has complied with the requirements of section 722-A is treated the same as any candidate whose name is printed on the ballot. An undeclared write-in candidate also may request a recount and be treated as a designated recount candidate, but only upon first submitting a written request for a recount that must contain a statement signed by the candidate that the candidate will accept the nomination. The consent must contain a declaration of the candidate's place of residence and party designation and a statement that the candidate meets the qualifications of the office the write-in candidate seeks, which the candidate must verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that the declaration is true. The undeclared write-in candidate must submit a \$10,000 deposit. If the recount fails to reverse the outcome of the election, the undeclared candidate must also pay the actual cost of the recount, as determined by the Secretary of State.

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[ 2009, c. 253, §43 (NEW) .]
```

3. Notice of recount. The Secretary of State shall send written notice of a recount to the candidates for the office in question, stating the time and place of the recount.

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[ 1993, c. 473, §31 (NEW); 1993, c. 473, §46 (AFF) .]
```

4. Time of recount and designated recount candidates. The recount must be held as soon as reasonably possible at a time and place that affords the designated recount candidates a reasonable opportunity to be present. For purposes of this section, "the designated recount candidates" means the leading candidate and each candidate who has requested a recount and paid the applicable fee in accordance with this section. The recount involves a new count of the results for the designated recount candidates only. Once a candidate has requested a recount, the other candidates for that elective office must be notified of the request as soon as possible. Candidates for that elective office whose vote totals fall between the totals of the leading candidate and the requesting candidate must be provided with an opportunity to be included in the recount as a designated recount candidate by making a written request to join the recount and paying the applicable fee, either within 5 business days after the election or, if the recount request is made on the last day of that period, by the close of business on the next business day. Candidates for that elective office other than the designated recount candidates may be present to observe the recount but are not included in the recount, and their vote totals remain as indicated in the official results reported by the municipalities.

```
[ 2003, c. 447, $26 (AMD) .]
```

5. Persons prohibited from working at recount. Confidential state employees, employees of the Legislature, candidates and elected state officials may not participate in ballot recounts in any capacity. This subsection does not prohibit employees within the Department of the Secretary of State, election officials and staff of the Department of the Attorney General and the Judicial Department from performing their duties with respect to a recount.

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[ 1993, c. 473, §31 (NEW); 1993, c. 473, §46 (AFF) .]
```

**6.** List of recount personnel. The Secretary of State shall maintain a list of recount personnel for 2 years after the recount.

```
[ 1993, c. 473, §31 (NEW); 1993, c. 473, §46 (AFF) .]
```

7. Disputed ballots segregated. At the recount, the Secretary of State shall segregate disputed ballots. Disputed ballots that are not resolved must be photocopied by a representative of the Secretary of State. The photocopy of the ballot is not a public record and must be kept separate from the original ballots.

When a recount is requested by a write-in candidate who did not receive the minimum number of votes required, if the write-in candidate is the only candidate at the recount and it appears from the recount that a sufficient number of votes for that candidate has been received at the election, then all ballots from that election are considered "disputed."

```
[ 1993, c. 473, §31 (NEW); 1993, c. 473, §46 (AFF) .]
```

8. Mistake in ballot count. If it is found that a mistake was made in counting the ballots on election day, or if the recount results show that an undeclared write-in candidate received votes for a particular office, the Secretary of State shall submit a corrected tabulation to the Governor.

```
[ 2009, c. 253, §44 (AMD) .]
```

9. Package resealed and marked. After a recount, if the election remains in dispute, the Secretary of State shall copy the incoming voting list, before proceeding to reseal the packages of ballots and incoming voting lists, noting the fact and date of the recount on the packages. The Secretary of State shall immediately send or deliver the copy of the incoming voting list to the clerk for the purpose of updating voter participation history in the central voter registration system. The clerk shall immediately send a receipt to the Secretary of State noting the date and time of delivery of the copy. All challenged and disputed ballots must be packaged separately. The challenged and disputed ballots must be kept until released to the court or to the Senate or the House of Representatives, if applicable, in case of an appeal.

```
[ 2009, c. 253, §45 (AMD) .]
```

10. Appeals. For all elections, except for the Senate and the House of Representatives, if there are enough challenged or disputed ballots to affect the result of an election, the Secretary of State shall forward the ballots and related records for that election to the clerk of the Supreme Judicial Court. The Supreme Judicial Court shall determine the result of the election pursuant to procedures adopted by court rule. The decision of the Supreme Judicial Court is final and must be certified to the Governor by the Chief Justice.

For all elections to the Senate and the House of Representatives, each House shall establish procedures for recount appeals.

```
[ 1993, c. 473, $31 (NEW); 1993, c. 473, $46 (AFF) .]
```

11. Withdrawal from recount. A candidate who requests and receives a recount may withdraw from the recount at any time while the recount shows that candidate to be the loser. If, during the recount, the candidate requesting the recount overtakes and passes the candidate who initially appeared to win the election, the candidate requesting the recount may not withdraw the request and the recount must be completed.

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[ 1993, c. 473, $31 (NEW); 1993, c. 473, $46 (AFF) .]
```

12. Authority to adopt rules. The Secretary of State is authorized to adopt rules governing the conduct and procedures for a recount. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

```
[ 2009, c. 253, §46 (NEW) .]

SECTION HISTORY

1993, c. 473, §31 (NEW). 1993, c. 473, §46 (AFF). 1995, c. 459, §$67,68 (AMD). 1999, c. 426, §$27,28 (AMD). 2003, c. 447, §$25-27 (AMD). 2005, c. 453, §58 (AMD). 2007, c. 515, §$7-9 (AMD). 2009, c. 253, §$41-46 (AMD).
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### REPORT to the KITTERY TOWN COUNCIL - TITLE 13 ORDINANCE REVISION

- 1 RESPONSIBLE INDIVIDUALS: Beers, Denault Date: 08-08-16
- 2 SUBJECT: Town Code Title 13 Ordinance Revision Requests

#### 3 BACKGROUND:

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- Sewer Assessment Plan Development Process Council Workshop 071816
- Proposal to revise Title 13 assessment administrative features to make them more
   accommodating to affected property owners:
  - o Payment plan period increase from 10 to (bond payment cash flow) years;
- 8 o 90-day connection (tank/field) mandate deferral option up to 10 years;
  - Payment deferral option for qualified low income owners;
- 0 Unbuildable lots not after the fact;
- o Clarify/revise obligation for Special Entrance and Impact Fee payment:
- o Clarify appeals IAW MRS.
- o Remove apparent Tax Collector discretion in accepting payment plans; and

#### 14 CURRENT SITUATION:

- Key Revision features include:
- 16 13.1.1.2 Reference corrected. Penalties defined in one paragraph.
- 17 13.1.1.7 Language clarifies the correct process for unpaid charges.
- 18 13.1.1.11 Clarifies connection requirements. Permits consideration of force majeure. Pump up sites
- exempted. Allows deferral for recent septic installations.
- 20 13.1.4.3.2 Definitions. Adds clarification to assessment categories benefited, etc. Section
- 21 renumbered.
- 22 13.1.4.3..56 Adds recent statutory exemptions from 36 MRS 1102.
- 23 13.1.4.4 Clarifies mortgage and promissory-installment payment plans. Increases repayment period
- from 10 years. Permits income-based deferral. Adds administrative protocols for denial and property
- 25 transfer.
- 26 Article VI. New Sewer Service Connection Fees. Clarifies requirements for application of impact
- and special entrance fees.
- 28 13.1.6.5 Clarifies impact fee features. Moves fee itself to Appendix A.
- 29 13.1.6.6 Defines Special Sewer Entrance Connection requirements more clearly.
- 30 13.1.7 Redefines impact and special entrance fee accounting and uses.
- 31 Chapter 13.2 Sewer Service Decision Appeals. Moves Title-related appeals to dedicated section,
- retaining arbitrator appeal as is, and changing the other three to the Board of Appeals.
- Unresolved questions include:
- 34 Page 4 Line 146
- 35 13.1.4.4 Collection of Assessments and Charges.
- 36 C. Owners with household income less than or equal to 50% of the local Area Median Family
- 37 Income as determined annually by the US Department of Housing and Urban Development and
- 38 varied by household size, may request deferral of payment of the assessment without penalty or
- 39 additional interest incurred for the period of eligibility. .....

### REPORT to the KITTERY TOWN COUNCIL - TITLE 13 ORDINANCE REVISION

FY 2016 Income Limits Summary - Kittery - Median \$84,200

FY 2016 Income Limit Category	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
Very Low (50%) Income Limits	\$29,500	\$33,700	\$37,900	\$42,100	\$45,500	\$48,850	\$52,250	\$55,600
Extremely Low (30%) Income Limits	\$17,700	\$20,200	\$22,750	\$25,250	\$28,440	\$32,580	\$36,730	\$40,890
Low (80%) Income Limits	\$46,000	\$52,600	\$59,150	\$65,700	\$71,000	\$76,250	\$81,500	\$86,750

41 Page 6 - Lines 229-230

40

- 42 13.1.6.5 Sewer Impact Fee.
- 43 13.1.6.5.1 Time Payable.
- Sewer impact fees, payable by the property owner pursuant to this section, must be paid prior to
- 45 the connection of any sewer line to the municipal sewage collection system; or upon the
- 46 issuance of any plumbing permit for additional plumbing fixtures; or change in use of any
- 47 property already connected to the municipal sewage collection system.
- 48 Question feasibility of a unit charge chart for additional faucets, lavatories, showers, sinks, etc.
- for all plumbing additions (unit charge by type of fixture); or retain 13.1.6.5.3: or retain
- 50 13.1.6.5.3 "For any category of use or change in use not specifically set forth above, the
- 51 enforcing officer determines the total number of unit charges based upon a per unit load of three
- 52 hundred (300) gallons per day."
- Enactment findings of fact, basis of law, and legislative intent delineated and appear to satisfy all statutory obligations (encl 1).
- "Strikeout/underscore" draft (*encl 2*) provided for considered are intended to resolve the various issues raised during the process.
- Drafts are in due form and proper format.
- 58 **RECOMMENDATION:** Ordainment consideration. Endorsement of Arbitration protocol.

### **ENCLOSURES**

- 1. Enactment Language
- 2. Ordinance Draft Proposal w/Index
- 3. Ordinance Final View (if accepted as presented)

### REPORT to the KITTERY TOWN COUNCIL – TITLE 13 ORDINANCE REVISION

**ENCLOSURE 1: Title 13 Ordinance Revision Enactment** 59 60 AN ORDINANCE relating to the municipality's authority to establish land use ordinance in the Town of the Kittery, as more particularly set forth herein. 61 WHEREAS, the Kittery Town Council is authorized to enact this Ordinance, as specified in 62 63 Sections 1.01 and 2.07(3) of the Town Charter; and 30-A MRS §3001, pursuant to its powers 64 that authorize the town, under certain circumstances, to provide for the public health, safety, 65 morals, and welfare and does not intend for this Ordinance to conflict with any existing state or federal laws; and 66 67 WHEREAS, the Council is enacting this Ordinance in order to correctly implement its obligations and authority pursuant to 30-A MRS Chapter 161 Sewers and Drains, §3442, Expense of 68 69 construction for clarifying various provisions related to sewer main extension projects; and 70 WHEREAS, the Council wishes to add detail and clarity to property owner rights of appeal and 71 arbitration pursuant to 30-A MRS Chapter 161 Sewers and Drains §3443, Arbitration of 72 assessment and 14 MRS Chapter 706, Uniform Arbitration Act; and 73 WHEREAS, the Council wishes to establish a more uniform and consistent basis for 74 assessment plan calculation hereafter; express obligations for payment of future connection 75 fees more definitively; and provide more flexible program administration features; and 76 WHEREAS, the Council intends, through the adoption of this Ordinance amendment, to clarify language implementing various goals in Section F. Water and Sewer Service of the Kittery 77 78 Comprehensive Plan; reduce adverse environmental impacts in an area of the Town; support 79 the opportunity for growth in Business Park and Commercial zones; and, not generate a cause 80 for increase in sewer usage rates or property taxes. 81 NOW THEREFORE, IN ACCORDANCE WITH TITLE 30-A MRS §3001, AND TOWN 82 CHARTER §2.14, THE TOWN OF KITTERY HEREBY ORDAINS REVISIONS TO TOWN **CODE TITLE 13, PUBLIC SERVICES, AS FOLLOWS:** 83 CHAPTER 1, ARTICLE I. IN GENERAL; ARTICLE IV. MAIN EXTENSIONS; ARTICLE VI. 84 NEW SEWER SERVICE CONNECTION FEES; AND, CHAPTER 13.2. SEWER SERVICE 85 86 DECISION APPEALS, AS [ PRESENTED / AMENDED ]. Approved as to form: \_\_\_\_\_ {NAME}, Town Attorney 87 INTRODUCED and read in a public session of the Town Council on the \_\_\_\_ day of \_\_\_\_\_, 88 20\_\_\_\_, by:\_\_\_\_\_\_\_{NAME} Motion to approve by Councilor 89 \_\_\_\_\_\_{NAME}, as seconded by Councilor \_\_\_\_\_\_\_{NAME} and 90 91 passed by a vote of . . THIS ORDINANCE IS DULY AND PROPERLY ORDAINED by the Town Council of Kittery, 92 Maine on the \_\_\_\_\_, 20\_\_\_, {NAME}, \_\_\_\_\_, Chairperson 93 Attest: {NAME}, \_\_\_\_\_Town Clerk 94

### ENCLOSURE 2

TOWN CODE TITLE 13 - INDEX - PROPOSED AMENDMENTS - 08-08-16

Chapter 13.1 Server Service SYSTEM
Article I. In General
13.1.1.1 Definitions and Abbreviations.
13.1.1.1.1Terms Defined.
13.1.1.1.2 Abbreviations.
13.1.1.2 Penalty—Violator's Liability—Additional Remedies.
13.1.1.3 Authority to Enter Properties to Make Inspections, etc.—Limited Authority of Inquin
13.1.1.4 Liability for Injuries, Damages Resulting from Inspections, etc.
13.1.1.5 Authority to Enter Easement for Inspection, etc.—Terms of Easement Govern.
13.1.1.6 Maintenance Responsibility of Sewer Department.
13.1.1.7 Rates and Charges.
13.1.1.8 Basis for Decisions of Superintendent.
13.1.1.9 Damaging, Tampering with Equipment, etc., Prohibited.
13.1.1.10 Liability for Damage Caused by Excavation Work.
13.1.1.11Installation of Toilet Facilities and Connection to Public Sewer Required.
Article II. Dangerous and Harmful Wastes
13.1.2.1 Effect on Special Agreements for Discharge.
13.1.2.2 Tests and Analyses.
13.1.2.3 Discharge of Unpolluted Drainage into Sanitary Sewer.
13.1.2.4 Required Discharge of Unpolluted Drainage.
13.1.2.5 Discharge of Specific Waters, Wastes into Public Sewers Prohibited.
13.1.2.6 Superintendent's Authority Regarding Acceptance of Harmful Wastes.
13.1.2.7 Interceptors Required When—Type, Location.
13.1.2.8 Maintenance of Treatment, Flow-equalizing Facilities—Cost.
13.1.2.9 Manholes.
13.1.2.10 Specific Harmful Discharges Enumerated.
Article III. Building Sewers and Connections
13.1.3.1 Permit Required.
13.1.3.2 Permit Classes—Application—Fee.
13.1.3.3 Technical Codes, Specifications to Govern Building Sewer Installations.
13.1.3.4 Technical Specifications.
13.1.3.4.1 Code Specifications to Govern Connections.
13.1.3.4.2 Deviations from Standards.
13.1.3.4. Tightness Required.
13.1.3.5 Costs of Installation—Connection—Owner's liability.
13.1.3.6 Separate Sewer for Each Building—Exception.
13.1.3.7 Use of Old Sewers with New Buildings.
13.1.3.8 Elevation of Building Sewer.
13.1.3.9 Excavations for Building Sewer Installation.
13.1.3.10 Inspection Prior to Connection—Superintendent to Supervise Connection.
13.1.3.11 Specific Connections to be Approved.
Article IV. Main Extensions
13.1.4.1 Council's Authority to Make Changes, Extensions.
13.1.4.2 Extensions Generally.
13.1.4.2.1 Petitions for Extensions.
13.1.4.2.2 Authority to Make Assessments for Costs of Extensions.
13.1.4.2.3 Construction by Property Owner, Builder or Developer.
13.1.4.3 Assessment.
13.1.4.3.1 Determination of Benefits.
13.1.4.3.2 <u>Definitions</u>
13.1.4.3.23 Limitation on Assessment—Formula for Determining Cost.
13.1.4.3.34 Responsibility for Sewer Lines.
13.1.4.3.45 Record of Location of Sewer Line—Notification of Owner.
13.1.4.3.56 Farm and Open Space Land Exempt from Assessment.

### **ENCLOSURE 2**

### TOWN CODE TITLE 13 – INDEX – PROPOSED AMENDMENTS – 08-08-16

13.1.4.3.6	Special Sewer Entrance Permit Fees.
	Collection of Assessments and Charges.
	Appeal of Assessment.
	Special Appeals.
13.1.4.6.1	
	Right to Appeal.
	Initiating an Appeal.
	Hearing the Appeal.
13.1.4.7	
Article V. Privat	te Sewage Disposal
13.1.5.1	Connection to Private System Required.
13.1.5.2	Permit Required to Construct System—Application—Permit and Inspection Fees
13.1.5.3	Effective Date of Permit—Inspections of Construction.
13.1.5.4	Operation and Maintenance of Facilities by Owner.
13.1.5.5	Effect on Additional Requirements of Health Officer.
	Connection to Public Sewer Required—Cleaning and Filling of Private System.
	Contents from Private Sewage Treatment Facilities.
13.1.5.7.1	
	Rates for Discharge.
	Penalties for Violation.
Chapter 13.2	SEWER IMPACT FEE Article VI. New Sewer Service Connection Fees
13.1.6	Requirement
13.1.6.1	Benefited and Assessed Properties.
13.1.6.2	Changes to Benefited and Assessed Properties - Impact Fee.
13.1.6.3	New Main Entrance Connection.
13.1.6.4	Changes to Unassessed Properties - Impact Fee.
13.2.11.6.5	Sewer Impact Fee.
13. <del>2.1</del> 1.6.5.1	Time Payable.
13. <del>2.1</del> 1.6.5.2	Amount Determined.
13.2.11.6.5.3	Categories of Use and Unit Charge.
13.2.11.6.5.4	Proportional Factors.
13.2.11.6.5.5	Multiple Category Factors.
13.2.11.6.5.6	Fee Determination and Appeal
13.1.6.6	Special Sewer Entrance Fee.
13.2.2	Sewer Impact Fee Fund.
13.2.3	Existing Structures and Uses Exempted.
	Off-premises Construction Costs.
13. <del>2.5</del> 1.6.8	Municipal Contracts or Agreements Exempted and Town Property.
13. <del>2.6</del> 1.6.9	Enforcement.
Article VII Spec	ial Entrance and Impact Fee Fund Accounting
13.1.7	Special Entrance and Impact Fee Fund.
13.2.7	Violation—Penalty.Chapter 13.2 SEWER SERVICE DECISION APPEALS
13.2.1	Arbitration Appeal of Assessment.
13.2.2	Unbuildable Parcel Appeals.
13.2.2.1	<u>Definitions</u>
13.2.2.2	Right to Unbuildable Parcel Appeal.
13.2.2.3	Initiating an Unbuildable Parcel Appeal.
13.2.3	Sewer Service Administrative Decision Appeals.

### 1 KITTERY TOWN CODE TITLE 13, PUBLIC SERVICES

- 2 Article I. In General
- 3 13.1.1.2 Penalty—Violator's Liability—Additional Remedies.
- 4 | A. Any person found to be violating any of the provisions of this chapter except §Section
- 5 | 13.04.0901.1.9 is to be served by the Town with written notice stating the nature of the violation
- 6 and providing a reasonable time limit for the satisfactory correction thereof. The offender must,
- 7 within the period of time stated in such notice, permanently cease all violations. A person who
- 8 violates any provision of this Chapter is subject to penalties set forth in Town Code Title 1,
- 9 Chapter 1.3, Enforcement, Penalty, Nuisance and Fees.
- 10 **13.1.1.7** Rates and Charges.
- 11 B. Each Sewer charges levied pursuant to this chapter is made a lien on the premises and
- 12 any balance outstanding on December 31st of any year not paid by July 1st of the following year
- 13 | is-are to be certified to the Itreasurer of the Town who is to place the same on the real property
- 14 tax bill for that year with interest and penalties allowed by law, and beare collected as other
- 15 Town taxes are collected.
- 16 F. Sewer user rate charges in accordance with this section will begin ninety (90) days after
- 17 notification by Town of the availability of the public sewer to serve the premises and remain in
- force whether or not the premises are occupied or connected to the system.
- 19 13.1.1.11 Installation of Toilet Facilities and Connection to Public Sewer Required.
- 20 A. Owners of all houses, buildings or properties used for human occupancy, employment,
- 21 recreation, or other purposes structures with use requiring the disposal of sewage situated within
- 22 the Town and abutting on any street, alley or right-of-way in-with public sewer located within one
- 23 hundred (100) feet of the property line as measured along any public way which there is located
- 24 a public sanitary sewer of the Town, are required at their expense to install suitable waste
- 25 effluent and/or toilet facilities therein, and to connect such facilities directly with to the proper
- public sewer in accordance with the provisions of this chapter, within ninety (90) days after date
- 27 of official notice to do so, provided that said public sewer is within one hundred (100) feet of the
- 28 property line as measured along any public way. Pursuant to Town Code Title 16, Chapter 8,
- 29 Article VII, Sewage Disposal, connection to public sewer is required for a commercial or
- 30 industrial development or a residential subdivision, where public sewer, within an abutting public
- 31 way, is within one thousand (1,000) feet of the property line as measured along said public way.
- 32 B. If an owner can demonstrate to the Town Manager diligent effort in arranging the connection.
- but is unable to meet the 90-day connection deadline due to force majeure circumstances, the
- 34 Town Manager may grant an extension and waive the penalties of Town Code Title 1, Chapter
- 35 1.3, Enforcement, Penalty, Nuisance and Fees.
- 36 C. When gravity flow cannot be obtained from the building or the property, the connection to
- 37 said public sewer is not required. However, this does not preclude waste flows from being
- pumped to the public sewer should the property owner so wish.
- 39 D. Owners of properties with a septic tank and leach field system installed within ten (10) years
- 40 of any main extension project completion date may request deferral of connection until the
- 41 system has reached the ten-years after installation anniversary.

- 42 Article IV. Main Extensions
- 43 13.1.4.3 Assessment.
- 44 13.1.4.3.1 Determination of Benefits.
- When the sewer line construction has been completed, the municipal officers shall determine
- 46 what lots or parcels of land, with or without structures thereon, are benefited by said sewer line;
- 47 and, estimate and assess upon said lots or parcels of land and against the record owner or
- 48 owners thereof or against a person, firm or corporation against whom the taxes thereon are
- 49 assessed, a sum not exceeding the benefit the municipal officers may deem just fair and
- 50 equitable towards defraying the expenses of said sewer construction together with any sewage
- 51 disposal units and appurtenances that may be necessary for the proper operation of said sewer
- 52 line.
- 53 <u>13.1.4.3.2</u> <u>Definitions.</u>
- 54 For the purposes of this Article, the following definitions apply:
- 55 Benefited Parcel: A property which has gained direct access to a sewer main extension via
- 56 <u>frontage or an existing public right-of-way less than one hundred (100) feet distant, whether</u>
- 57 gravity flow is readily achievable or not.
- 58 Assessed Parcel: A benefited property included in an adopted Assessment Plan obliging
- 59 payment of an Assessment Fee.
- 60 Unassessed Parcel: Those parcels of abutting property that were not benefitted or assessed
- 61 when sewer main extension assessments were made; and, those parcels that were thereafter
- 62 <u>found not benefited by such sewers and therefore not subject to such assessments.</u>
- 63 Dwelling Unit: A room or group of rooms forming a habitable unit for one family with facilities
- 64 used or intended to be used for living, sleeping, cooking, eating, and sanitary facilities. It
- comprises at least six hundred fifty (650) square feet of habitable floor space and includes any
- 66 subcategory definition of dwelling as found in Title 16, §2.2, (e.g. Inn, Accessory Dwelling Unit).
- 67 Unit-of-Occupancy: The category of property use which carries the unit charge as found in
- 68 §13.1.6.5, Sewer Impact Fee.
- 69 Per-Dwelling-Unit: The basis of calculation of the number of dwelling units in residential zones
- 70 assessed in an adopted Sewer Main Extension Assessment Plan, or to be assessed for sewer
- 71 | special entrance connection fee.
- 72 **Per-Unit-of-Occupancy:** The basis of calculation of the number of occupied units in
- 73 nonresidential zones assessed in an adopted Sewer Main Extension Assessment Plan, or to be
- 74 assessed for sewer special entrance connection fee.
- 75 | 13.1.4.3.23 Limitation on Assessment—Formula for Determining Cost.
- The whole of the assessments may not exceed one-half the cost of the entire project contract
- 77 price of constructing and completing the sewer line including all necessary appurtenances and
- sewage disposal units. The municipal officers shall devise and utilize a formula for determining
- 79 the fair and equitable cost to the owner or owners of land so benefited.
- 80 13.1.4.3.34 Responsibility for Sewer Lines.
- 81 The municipality is responsible for such sewer lines after construction and thereafter must
- maintain and keep the same in good repair.

- 83 | 13.1.4.3-45 Record of Location of Sewer Line—Notification of Owner.
- A. The municipal officers shall file with the clerk of the Town the location of the sewer line and
- 85 sewage disposal units and appurtenances, with a profile description of the same and a
- statement of the amount assessed upon each lot or parcel of land so assessed and the name of
- the owner of the lots or parcels of land or person against whom the assessment is made.
- 88 B. The clerk of the Town is to record the assessment in a book kept for that purpose and within
- ten (10) days after filing notice, each person so assessed is to be notified of the assessment by
- 90 having an authentic copy of the assessment, with an order of notice signed by the clerk of the
- Town stating the time and place for a hearing upon the subject matter of the assessments,
- 92 given to each person so assessed or left at their usual place of abode in the Town.
- 93 C. If a person has no place of abode in the Town, then the notice may be given or left at the
- 94 abode of their tenant or lessee, if the person has one in the Town. If the person has no tenant
- or lessee in the Town, then by posting the notice in some conspicuous place in the vicinity of the
- 96 I lot or parcel of land so assessed at least thirty (30) days before the hearing of Tthe notice may
- 97 be given by publishing it three weeks successively in any newspaper published in the Town, the
- 98 first publication to be at least thirty (30) days before the hearing.
- 99 D. A return made upon a copy of the notice by any constable in the Town or the production of
- the paper containing the notice is conclusive evidence that the notice was given, and upon the
- hearing, the municipal officers have power to revise, increase or diminish any of the
- assessments, and any revisions, increase or diminution is to be in writing and recorded by the
- 103 clerk.
- 104 13.1.4.3-.56 Farmland Farm and Open Space Land Exempt from Assessment.
- 105 A. Farmland Land, classified and restricted for use for agricultural, forest/woodland, open space
- or wildlife habitat purposes as defined by 36, M.R.S. -§1102.4-4, is exempt from the assessment
- provided in Section §13.1.4.3 of this section when no benefits are derived from the common
- sewer or drain. Owners of such qualified farmland must notify the municipal officers that their
- property may qualify for this exception. The municipal officers are to revise the assessments
- 110 against such qualified farmland to exempt it from assessment. Any revision of assessment
- provided by this paragraph is to be in writing and recorded by the clerk.
- 112 B. When the use of the land is changed from farmland such exempted use, the owner must,
- within sixty (60) days, notify the municipal officers in writing of the change. The municipal
- officers shall assess this land in an amount equal to the assessment which would have been
- due but for the provisions of this paragraph. The municipality must notify the owner of the
- assessment due which the owner must pay within sixty (60) days of notice or as provided by the
- 117 | municipal officers under their authority in 30-A, M.R.S. §4452, Enforcement of land use laws
- 118 and ordinances4453.
- 119 13.1.4.3.6 Special Sewer Entrance Permit Fees.
- 120 A. A special sewer entrance permit fee as set out in Appendix A is established on a per-dwelling-unit
- basis as defined in the zoning ordinance for residential zones and on a per-unit of occupancy basis for
- 122 buildings in a nonresidential zone for entrance to the above-listed assessed public sewers and any future
- city-assessed public sewers to service any nonassessed parcels of property by such public sewers,
- 124 provided that there is presently a house service connection existing. If not, the property owner would be
- 125 responsible for the charges to install this service connection.

- 126 B. The foregoing phrase "nonassessed parcels of property" includes both the parcels of abutting
- 127 property that were not assessed when the sewer construction assessments were made and those parcels
- 128 that were thereafter found not benefited by such sewers and therefore not subject to such assessments.
- 129 C. The permit fee is to be paid in full prior to the issuance of such permit and prior to the entrance of
- 130 such public sewers to service the nonassessed parcels of property.
- D. Any person or party seeking such a permit who may be aggrieved by the provisions herein set forth
- may file an appeal to the municipal officers for a review of the application for the permit. The municipal
- officers must grant a hearing on the application and upon a review of the same may modify the provisions
- 134 herein set forth as they may deem expedient and proper for the issuance of such permit.

### 13.1.4.4 Collection of Assessments and Charges.

- 136 A. All assessments and charges made pursuant to this article are to be certified by the
- municipal officers and filed with the tax collector for collection. A facsimile of the signatures of
- 138 the municipal officers imprinted at their direction upon any certification of an assessment or
- charge under this article has the same validity as their signatures.
- 140 B. The tax collector may enter into a written mortgage agreement with the owner or owner(s) of
- land so assessed and provide the same with an extended promissory note and installment
- 142 payment plan for the amount of the assessment ("Assessment Payment Plan"). This
- 143 Assessment Payment Plan, which agreement is to provide for payment of said assessment to
- 144 the Town over a period not to exceed the shorter of eighteen (18) years, or two years shorter
- than the Town's bond repayment period for the applicable project, exceed ten (10) years of such
- 146 assessment at an interest rate to be determined by the municipal officers. Such agreement is
- also to specify the method of collection in the event that such payment is in default, and further,
- 148 the mortgage agreement is to be recorded by the Town in the York County registry of deeds.
- 149 C. Owners with household income less than or equal to 50% of the local Area Median Family
- 150 Income as determined annually by the US Department of Housing and Urban Development and
- varied by household size, may request deferral of payment of the assessment without penalty or
- 152 <u>additional interest incurred for the period of eligibility.</u> Should the tax collector find an owner
- ineligible under those provisions, the tax collector may enter into a written agreement with the
- owner under the same term and terms pursuant to B, above.
- 155 D. Should the tax collector decline to enter into such payment agreement, aggrieved owner(s)
- 156 may appeal the decision to the Board of Appeals pursuant to Chapter 13.2, Sewer Service
- 157 Decision Appeals.

135

- 158 E. Payment of the assessment is due in full upon demise of the owner(s); sale or transfer of the
- 159 property; and, in no greater a period than permitted for the original adopted Assessment
- 160 Payment plans.
- 161 SF. The municipal officers shall annually file with the tax collector a list of installment payments
- due the municipality under such written agreements with the owner or owners of land so
- assessed.
- 164 CG. If the person, firm or corporation so assessed within thirty (30) days after written notice of
- the total amount of such assessment and charges, or annual installment payment and interest,
- fails, neglects or refuses to pay such municipality the expense thereby incurred, or fails to enter
- into a written agreement as provided herein for payment of the same, or fails to pay any
- installment due under a written agreement so entered, then a special tax in the amount of the
- total unpaid assessment and charge may be assessed by the municipal assessor upon each
- and every lot or parcel of land so assessed and buildings upon the same, and

- 171 H. Souch assessment is to be included in the next annual warrant to the tax collector for 172 collection, and collected in the same manner as state, county, and municipal taxes are 173 collected. Interest at a rate of twelve percent (12%) per year on the unpaid portion of 174 assessments and charges due the municipality accrues from the thirtieth day after written notice 175 to the person assessed, and is to be added to and become part of the special tax when 176 committed to the tax collector. 177 13.1.4.5 Appeal of Assessment. Any person not satisfied with the amount of assessment pursuant to Section 13.1.4.3 may appeal within 178 179 ten (10) days pursuant to 30-A M.R.S. §3443. 180 Special Appeals. 181 13.1.4.6.1 **Definitions** 182 The following definitions apply to this Section only: 183 Unbuildable means no structure containing or required to contain sanitary facilities may be legally 184 constructed to zoning restrictions. 185 Zening means any land use and development statute, ordinance, rule, or regulation promulgated by a 186 federal, state, or local government or agency. 187 13.1.4.6.2 Right to Appeal. Any person or entity not satisfied with the amount assessed pursuant to Section 13.1.4.3 may, without 188 189 limitation of time, appeal the assessed amount to the Board of Appeals providing, at time of assessment: 190 A. The appellant was the record owner of the assessed property and, excepting spousal inclusions or 191 exclusions, remains so without interruption at time of appeal; and 192 B. The assessed property was vacant, or was improved by structure(s) neither containing nor required to 193 contain sanitary facilities. 194 13.1.4.6.3 Initiating an Appeal. 195 Special appeals are initiated by applications available from and filed with the municipal clerk. Filed 196 applications must be accompanied by a written statement from the Code Enforcement Officer that the 197 involved property is unbuildable as defined in this section, plus the written determination of the Board of 198 Appeals affirming the Code Enforcement Officer's decision. Both must be dated not more than ninety 199 (90) days prior to filing. 200 13.1.4.6.3 Hearing the Appeal. 201 The Board of Appeals is empowered to hear special appeals pursuant to 30-A M.R.S. 2691.4. Within 202 forty-five (45) days of a special appeal filing, the Board must hear the matter and, within ten (10) days 203 thereafter, issued a written decision granting or denying appellant's request for abatement of the 204 betterment assessment in its entirety. If the appeal is granted, the town must, within thirty (30) days of 205 the decision, refund the assessed amount, exclusive of interest. 206 Chapter 13.2 Article VI. New Sewer Service Impact Connection Fees 207 13.1.6 Requirement.
- 208 13.1.6.1 Benefited and Assessed Properties.
- 209 Main extension projects include properties established by the Town Council as benefited and
- 210 owners are obliged to pay an assessment fee as ordained above. The fees required by the
- 211 provisions of this chapter do not apply to connections to the municipal sewage collection system
- 212 of any structure existing at the time of adoption of an Assessment Plan for such benefitted and
- 213 assessed properties.

214	13.1.6.2 Changes to Benefited and Assessed Properties – Impact Fee.
215	An impact fee is assessed when there is a change in the use, character, or size, of any structure
216	on a parcel, or any other condition that results in additional sewage flow from that parcel.
217	Additional sewage flow is any increase in the number of units of occupancy over that existing at
218	the time of adoption of an Assessment Plan resulting in an increase in the wastewater discharge
219	over that existing; or, reasonably estimated to have existed as date of the benefit assessment
220	plan adoption.
221	13.1.6.3 New Main Entrance Connection.
222	Changes in use for benefited properties and all properties not included in a prior main extension
223	Assessment Plan (not benefited or assessed) requiring a new sewer main entrance connection
224	must pay a special sewer entrance connection fee, as reflected in §13.1.6.6.
225	13.1.6.4 Changes to Unassessed Properties – Impact Fee.
226	All properties not included in a prior sewer main extension Assessment Plan (not benefited or
227	assessed) must pay an impact fee as reflected in §13.1.6.5, except any which have an
228	easement agreement granted to the Town in lieu of other compensation.
229	13.2.11.6.5 Sewer Impact Fee.
230	13.2.11.6.5.1 Time Payable.
231	SA sewer impact fees, is due and payable by the property owner pursuant to this section, must
232	be paid prior to the connection of any sewer line to the municipal sewage collection system; or
233	upon the issuance of any plumbing permit for additional plumbing fixtures; or change in use of
234	any property already connected to the municipal sewage collection system. Said sewer impact
235	fee is to be determined as provided in Subsection B of this section. As used in this chapter the
236	term "plumbing fixture" is as defined by the State of Maine Internal Plumbing Rules, Chapter
237	238, promulgated pursuant to 22 M.R.S. §42.
238	13.2.11.6.5.2 Amount Determined.
239	The sewer impact fee payable pursuant to subsection A of this section is determined by
240	multiplying the unit charge for the particular category(s) of property use as set forth in
241	§13.1.6.5.3 or 4, subsection C of this section by the basic sewer impact fee of two thousand
242	dollars (\$2,000.00) per unit chargeset forth in Town Code Appendix A.
243	13.2.11.6.5.3 Categories of Use and Unit Charge.
244	The following categories of property use carry the unit charge set forth herein to be used in the
245	
ı	
246	Minimum charge1/2 unit charge
247	Single-family dwelling or condominium unit1 unit charge
248	Multifamily dwelling or condominium unit
249	per <del>dwelling or condominium</del> unit1 unit charge
250	3 hotel units (double occupancy) 1 unit charge
251	5 motel units (double occupancy) 1 unit charge
252	4 boarding house (double occupancy) 1 unit charge
<ul><li>253</li><li>254</li></ul>	7 cabins1 unit charge
255	15 school students (day school) 1 unit charge
256	4 school students (boarding school) 1 unit charge
250	2 hospital beds (medical)1 unit charge

257		3 nursing home beds	1 unit charge
258		50 theater seats	<sub>.</sub> 1 unit charge
259		30 employees	
260		Retail store per 1,500 gross square feet	_1 unit charge
261		30 full service restaurant or function room seats	_1 unit charge
262		1 laundromat machine	
263		1 automobile service station	
264		Fast food and/or drive-in service restaurant (15 seats)	
265		10 yacht or country club members	
266		50 church members	
267		Industrial and manufacturing use	
268			domestic use plus any
269	•		process water usage
270		Commercial and retail uses:	
271		5 plumbing fixtures added to existing structures	
272		and connected to wastewater collection system	1 unit charge
273		For any category of use or change in use not specifically s	et forth above, the enforcing officer
274		determines the total number of unit charges based upon a	per unit load of three hundred (300)
275		gallons per day.	
276	1	13.2.11.6.5.4 Proportional Factors.	
277	ı	When the number of units within a category of use does n	ot exactly correspond to that listed in
278		the schedule above, a proportional factor is to be utilized t	FINE DESCRIPTION FOR THE SECOND SECON
279		For example, to compute the total sewer impact fee for a s	
280		calculation is used:	even-unit moter the following
281	1	7 motel units = 1 Unit charge for 5	2/5 Unit charge for 2
282		= \$3,000 + (2/5 X \$3,000 (\$1,200)) = \$4,200.00	2/3 Offit charge for 2
283			
284		5 motel units	
285		per unit charge	
286		13.2.11.6.5.5 Multiple Category Factors.	
287	3858	If two or more categories of use may apply to a particular	proposed use, the sewer impact fee is
288		the higher of the two or more calculations. However, whe	
289		structure, each such use is subject to a separate sewer im	0.5
290	1	13.2.11.6.5.6 Fee Determination and Appeal.	
291		A. The sewer impact fee due and payable by the property	owner is to be calculated and
292		determined by the enforcing Code Enforcement Oefficer.	If the property owner is aggrieved by
293	١	the determination of the enforcing officer, a written appeal may l	
294		(10) days from the date of notification of such determination by	
<ul><li>295</li><li>296</li></ul>		must set forth a concise statement of the grounds upon which the determination by the enforcing officer is in error.	e property owner contenus that the
297		B. The Town Manager, within seven days of receiving the appe	eal, shall set a date to hear and determine
298		the appeal. The hearing date may not be more than fourteen (1	
299		with the Town Manager. The property owner is allowed to prese	ent whatever testimony or evidence the
300		owner may determine to be relevant and appropriate to the appropriate	eal before the Town Manager.

- 301 C. The Town Manager shall issue a decision on the appeal within five days after hearing. The Town Manager's decision is a final determination of the appeal.
- 303 13.2.2 Sewer Impact Fee Fund.
- A. A sewer impact fee fund is established and is the depository for all sewer impact fees collected by the enforcing officer under the terms of this chapter. Said fund is to be segregated by the Town from general revenues and used solely and exclusively towards expenses for capital improvements to the municipal sewage treatment plant made necessary by the increased development giving rise to the payment of said fees.
- B. The proceeds in this fund may be expended in concert with other revenues and planned expenditures or capital improvement funds of the Town but only for capital improvements to the municipal sewage treatment plant as distinct from expenses for the maintenance and repair to the existing municipal sewage treatment system. All moneys so accumulated in this fund are to be expended by the Town for the specific purposes stated herein within ten (10) years of their collection and deposit therein.
- 314 13.2.3 Existing Structures and Uses Exempted.
- The sewer impact fee required by the provisions of this chapter does not apply to the connections to the municipal sewage collection system of any sewage disposal system, presently existing or operating or servicing any building, structure or dwelling as of the effective date of the ordinance codified in this chapter provided, however, that any change in the use, character or size of any such building, structure or
- dwelling after the effective date of the ordinance codified in this chapter which results in additional sewage flow is not exempt from the sewer impact fee. For purposes of this provision, additional flow
- sewage flow is not exempt from the sewer impact fee. For purposes of this provision, additional flow is defined as any increase in the number of residential units over that existing as of the effective date of the
- ordinance codified in this chapter or any change in the use or intensity of nonresidential property resulting in an increase in the wastewater discharge over that existing or reasonably estimated to have existed as
- 324 of the effective date of the ordinance codified in this chapter.
- 325 13.1.6.6 Special Sewer Entrance Connection Fee.
- A. A special sewer entrance connection fee as set out in Town Code Appendix A is established
- on a per-dwelling-unit basis for residential zones and on a per-unit-of-occupancy basis for
- 328 <u>buildings in a nonresidential zone for each new sewer entrance connection to a system main.</u>
- B. The entrance connection fee is to be paid in full prior to the issuance of a permit for the new connection.
- 331 13.2.41.6.7 Off-premises Construction Costs.
- 332 All costs of extending sewage lines from the property to be serviced to the municipal sewage
- 333 collection system are to be assumed solely by the owner or party having an interest in the
- property to be so serviced, and Nno such construction may commence until there is complete
- 335 compliance with all provisions of this chapter and all other relevant governmental statutes, rules
- and regulations. Extension of the sewer lines and pumping station must meet the standards of
- the Town and capacity must be such as to handle all anticipated sewage flows and allow for
- 338 flow from all possible future extension or development within immediate drainage area as
- 339 determined by the Town.
- 340 13.2.51.6.8 Municipal Contracts or Agreements Exempted and Town Property.
- 341 This chapter does not apply to sewage disposal covered by any agreement or contract between
- 342 the Town and any governmental body, or subdivision thereof, nor does it apply to the treatment
- of any sewage flow from property owned by the Town.
- 344 | 13.2.61.6.9 Enforcement.
- This chapter is enforced by the code enforcement officer.

346 347 348 349 350 351 352 353 354	Any person who violates any of the provisions of this chapter is guilty of a civil infraction and liable for a fine not to exceed one hundred dollars (\$100.00). Each day such violation is permitted to exist after written notification thereof by the enforcing officer constitutes a separate offense. All fines collected hereunder accrue to the Town. When any violation of any provision of this chapter is found to exist, the Town attorney upon notice from the Town Manager, is authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this chapter, the same to be brought in the name of the Town.  Article VII Special Entrance and Impact Fee Fund Accounting
355	13.1.7 Special Entrance and Impact Fee Fund.
356 357 358 359 360	A. A Wastewater Treatment Department fund account is established and is the depository for all special sewer entrance connection and impact fees collected under the terms of this chapter. Said fund is to be accounted as a Department designated reserve and used solely and exclusively towards expenses for capital improvements and repair/replacement of capital components of the municipal wastewater treatment system.
361 362 363 364 365 366	B. The proceeds in this fund may be expended in concert with other revenues and planned expenditures or capital improvement funds of the Town, but only for capital improvements to the municipal wastewater treatment system as distinct from expenses for regular operations, maintenance, and repair. All moneys accumulated in this fund are to be expended by the Town for the specific purposes stated herein within ten (10) years of their collection and deposit therein, or within the amortization period of any project bond created for the same purpose(s).
367	Chapter 13.2 SEWER SERVICE DECISION APPEALS
368	13.2.1 Arbitration Appeal of Assessment.
369 370 371 372	A. Any person not satisfied with the amount of assessment pursuant to §13.1.4.3 may appeal within ten (10) days after a hearing by the municipal officers, pursuant to 30-A, M.R.S. §3443, Arbitration of assessment, to an independent arbitration panel as established by the municipal officers as incorporated in the Assessment Plan adopted for any main extension project.
373 374 375 376	1. Arbitrators selected. The municipal officers shall nominate six persons who are residents of the municipality. The applicant shall select two of these persons, and these two persons shall select a third person who is a resident of the municipality and who is not one of the six persons nominated by the municipal officers.
377 378 379 380	2. Arbitration procedure. The three persons selected under subsection 1 shall fix the amount to be paid by the applicant. Within 30 days from the hearing before the municipal officers under 30-A, M.R.S. §3442, the arbitrators shall report their findings to the municipal clerk who shall record them. The arbitrators' report is final and binding on all parties.
381 382	B. Appellants are referred to 14, M.R.S. Chapter 706, Uniform Arbitration Act, §5931, et seq, for statutory provisions related to such appeals.
383	13.2.2 Unbuildable Parcel Appeals.
384	13.2.2.1 Definitions.
385	The following definitions apply to this Section only:

386 387	<u>Unbuildable</u> means no structure containing or required to contain sanitary facilities may be legally constructed due to zoning restrictions.
388 389	Zoning means any land use and development statute, ordinance, rule, or regulation promulgated by a federal, state, or local government or agency.
390 391 392 393 394	13.2.2.2 Right to Unbuildable Parcel Appeal.  Any person owning a property, included in an adopted Assessment Plan for a sewer main extension project, not satisfied with the amount assessed pursuant to §13.1.4.3 may, prior to Assessment Fee payment due date and without limitation of time thereafter, appeal the assessed amount to the Board of Appeals (BoA), as an unbuildable parcel, provided that:
395 396	A. The appellant was the record owner of the assessed property and, excepting spousal inclusions or exclusions, remains so without interruption at time of appeal; and
397 398	B. The assessed property was vacant, or was improved by structure(s) neither containing nor required to contain sanitary facilities.
399	13.2.2.3 Initiating an Unbuildable Parcel Appeal.
400 401 402	A. Unbuildable Parcel Appeals are to be filed in accordance with Town Code Title 16, §6.5, Board of Appeals Appeal/Request Filing Procedures. The pertinent provisions of that Code section's protocols for the Board to address such appeals apply.
403 404 405	B. Filed applications must be accompanied by a written statement from the Code Enforcement Officer and Town Planner regarding whether the involved property is developable as defined in this section.
406	13.2.3 Sewer Service Administrative Decision Appeals.
407 408 409 410	A. Any person filing a permit application for a sewer special entrance connection; or, is determined by the Code Enforcement Officer to be obliged to pay an impact fee, who may be aggrieved by the provisions set forth herein, may file an Administrative Decision appeal to the BoA for a review of the determination.
411 412	B. Any person denied a Payment Plan by the tax collector may file an Administrative Decision appeal to the BoA for such decisions.
413 414 415	C. Such Administrative Decision appeals are to be filed in accordance with Town Code Title 16, §6.5, Board of Appeals Appeal/Request Filing Procedures. The pertinent provisions of that Code section's protocols for the Board to address such appeals apply.

### 1 KITTERY TOWN CODE TITLE 13, PUBLIC SERVICES

- 2 Article I. In General
- 3 13.1.1.2 Penalty—Violator's Liability—Additional Remedies.
- 4 A. Any person found to be violating any of the provisions of this chapter except §13.1.1.9 is to
- 5 be served by the Town with written notice stating the nature of the violation and providing a
- 6 reasonable time limit for the satisfactory correction thereof. The offender must, within the period
- of time stated in such notice, permanently cease all violations. A person who violates any
- 8 provision of this Chapter is subject to penalties set forth in Town Code Title 1, Chapter 1.3,
- 9 Enforcement, Penalty, Nuisance and Fees.
- 10 **13.1.1.7** Rates and Charges.
- 11 B. Sewer charges levied pursuant to this chapter not paid by July 1st of the following year are
- 12 to be certified to the Treasurer of the Town who is to place the same on the real property tax bill
- for that year with interest and penalties allowed by law, and are collected as other Town taxes
- 14 are collected.
- 15 F. Sewer user rate charges in accordance with this section will begin ninety (90) days after
- notification by Town of the availability of the public sewer to serve the premises and remain in
- 17 force whether or not the premises are occupied or connected to the system.
- 18 13.1.1.11 Installation of Toilet Facilities and Connection to Public Sewer Required.
- 19 A. Owners of all structures with use requiring the disposal of sewage with public sewer located
- 20 within one hundred (100) feet of the property line as measured along any public way are
- 21 required at their expense to install suitable waste effluent and/or toilet facilities therein, and to
- 22 connect such facilities directly to the public sewer in accordance with the provisions of this
- chapter, within ninety (90) days after date of official notice to do so. Pursuant to Town Code
- 24 Title 16, Chapter 8, Article VII, Sewage Disposal, connection to public sewer is required for a
- 25 commercial or industrial development or a residential subdivision, where public sewer, within an
- abutting public way, is within one thousand (1,000) feet of the property line as measured along
- 27 said public way.
- 28 B. If an owner can demonstrate to the Town Manager diligent effort in arranging the connection.
- but is unable to meet the 90-day connection deadline due to force majeure circumstances, the
- 30 Town Manager may grant an extension and waive the penalties of Town Code Title 1, Chapter
- 31 1.3, Enforcement, Penalty, Nuisance and Fees.
- 32 C. When gravity flow cannot be obtained from the building or the property, connection to said
- 33 public sewer is not required. However, this does not preclude waste flows from being pumped
- 34 to the public sewer should the property owner so wish.
- D. Owners of properties with a septic tank and leach field system installed within ten (10) years
- 36 of any main extension project completion date may request deferral of connection until the
- 37 system has reached the ten-years after installation anniversary.

- 38 Article IV. Main Extensions
- 39 13.1.4.3 Assessment.
- 40 13.1.4.3.1 Determination of Benefits.
- 41 When the sewer line construction has been completed, the municipal officers shall determine
- 42 what lots or parcels of land, with or without structures thereon, are benefited by said sewer line;
- 43 and, estimate and assess upon said lots or parcels of land and against the record owner or
- owners thereof or against a person against whom the taxes thereon are assessed, a sum not
- exceeding the benefit the municipal officers deem fair and equitable towards defraying the
- 46 expenses of said sewer construction together with any sewage disposal units and
- 47 appurtenances that may be necessary for the proper operation of said sewer line.
- 48 **13.1.4.3.2 Definitions.**
- 49 For the purposes of this Article, the following definitions apply:
- 50 Benefited Parcel: A property which has gained direct access to a sewer main extension via
- frontage or an existing public right-of-way less than one hundred (100) feet distant, whether
- 52 gravity flow is readily achievable or not.
- 53 Assessed Parcel: A benefited property included in an adopted Assessment Plan obliging
- 54 payment of an Assessment Fee.
- 55 Unassessed Parcel: Those parcels of abutting property that were not benefitted or assessed
- 56 when sewer main extension assessments were made; and, those parcels that were thereafter
- 57 found not benefited by such sewers and therefore not subject to such assessments.
- Dwelling Unit: A room or group of rooms forming a habitable unit for one family with facilities
- 59 used or intended to be used for living, sleeping, cooking, eating, and sanitary facilities. It
- 60 comprises at least six hundred fifty (650) square feet of habitable floor space and includes any
- subcategory definition of dwelling as found in Title 16, §2.2, (e.g. Inn, Accessory Dwelling Unit).
- 62 Unit-of-Occupancy: The category of property use which carries the unit charge as found in
- 63 §13.1.6.5, Sewer Impact Fee.
- 64 **Per-Dwelling-Unit:** The basis of calculation of the number of dwelling units in residential zones
- assessed in an adopted Sewer Main Extension Assessment Plan, or to be assessed for sewer
- 66 special entrance connection fee.
- 67 **Per-Unit-of-Occupancy**: The basis of calculation of the number of occupied units in
- 68 nonresidential zones assessed in an adopted Sewer Main Extension Assessment Plan, or to be
- 69 assessed for sewer special entrance connection fee.
- 70 13.1.4.3.3 Limitation on Assessment—Formula for Determining Cost.
- 71 The whole of the assessments may not exceed one-half the cost of the entire project contract
- 72 price of constructing and completing the sewer line including all necessary appurtenances and
- 73 sewage disposal units. The municipal officers shall devise and utilize a formula for determining
- the fair and equitable cost to the owner or owners of land so benefited.
- 75 13.1.4.3.4 Responsibility for Sewer Lines.
- The municipality is responsible for such sewer lines after construction and thereafter must
- 77 maintain and keep the same in good repair.

### 78 13.1.4.3.5 Record of Location of Sewer Line—Notification of Owner.

- 79 A. The municipal officers shall file with the clerk of the Town the location of the sewer line and
- sewage disposal units and appurtenances, with a profile description of the same and a
- statement of the amount assessed upon each lot or parcel of land so assessed and the name of
- the owner of the lots or parcels of land or person against whom the assessment is made.
- 83 B. The clerk of the Town is to record the assessment in a book kept for that purpose and within
- ten (10) days after filing notice, each person so assessed is to be notified of the assessment by
- 85 having an authentic copy of the assessment, with an order of notice signed by the clerk of the
- 86 Town stating the time and place for a hearing upon the subject matter of the assessments,
- given to each person so assessed or left at their usual place of abode in the Town.
- 88 C. If a person has no place of abode in the Town, then the notice may be given or left at the
- 89 abode of their tenant or lessee, if the person has one in the Town. If the person has no tenant
- or lessee in the Town, then by posting the notice in some conspicuous place in the vicinity of the
- 91 lot or parcel of land so assessed at least thirty (30) days before the hearing. The notice may be
- 92 given by publishing it three weeks successively in any newspaper published in the Town, the
- 93 first publication to be at least thirty (30) days before the hearing.
- 94 D. A return made upon a copy of the notice by any constable in the Town or the production of
- 95 the paper containing the notice is conclusive evidence that the notice was given, and upon the
- 96 hearing, the municipal officers have power to revise, increase or diminish any of the
- 97 assessments, and any revisions, increase or diminution is to be in writing and recorded by the
- 98 clerk.

### 99 13.1.4.3.6 Farm and Open Space Land Exempt from Assessment.

- 100 A. Land, classified and restricted for use for agricultural, forest/woodland, open space or
- wildlife habitat purposes as defined by 36, M.R.S. §1102, is exempt from the assessment
- provided in §13.1.4.3 when no benefits are derived from the common sewer or drain. Owners of
- 103 such qualified land must notify the municipal officers that their property may qualify for this
- exception. The municipal officers are to revise the assessments against such land to exempt it
- from assessment. Any revision of assessment provided by this paragraph is to be in writing and
- 106 recorded by the clerk.
- 107 B. When the use of the land is changed from such exempted use, the owner must, within sixty
- 108 (60) days, notify the municipal officers in writing of the change. The municipal officers shall
- assess this land in an amount equal to the assessment which would have been due but for the
- 110 provisions of this paragraph. The municipality must notify the owner of the assessment due
- which the owner must pay within sixty (60) days of notice or as provided by the municipal
- officers under their authority in 30-A, M.R.S. §4452, Enforcement of land use laws and
- 113 ordinances.

### 114 13.1.4.4 Collection of Assessments and Charges.

- 115 A. All assessments and charges made pursuant to this article are to be certified by the
- municipal officers and filed with the tax collector for collection. A facsimile of the signatures of
- the municipal officers imprinted at their direction upon any certification of an assessment or
- charge under this article has the same validity as their signatures.

- B. The tax collector may enter into a written mortgage agreement with the owner(s) of land so
- assessed and provide the same with an extended promissory note and installment payment
- plan for the amount of the assessment ("Assessment Payment Plan"). This Assessment
- 122 Payment Plan agreement is to provide for payment of said assessment to the Town over a
- period not to exceed the shorter of eighteen (18) years, or two years shorter than the Town's
- bond repayment period for the applicable project, at an interest rate to be determined by the
- municipal officers. Such agreement is also to specify the method of collection in the event that
- such payment is in default, and further, the mortgage agreement is to be recorded by the Town
- in the York County registry of deeds.
- 128 C. Owners with household income less than or equal to 50% of the local Area Median Family
- Income as determined annually by the US Department of Housing and Urban Development and
- varied by household size, may request deferral of payment of the assessment without penalty or
- additional interest incurred for the period of eligibility. Should the tax collector find an owner
- ineligible under those provisions, the tax collector may enter into a written agreement with the
- owner under the same term and terms pursuant to B, above.
- D. Should the tax collector decline to enter into such payment agreement, aggrieved owner(s)
- may appeal the decision to the Board of Appeals pursuant to Chapter 13.2, Sewer Service
- 136 Decision Appeals.
- 137 E. Payment of the assessment is due in full upon demise of the owner(s); sale or transfer of the
- property; and, in no greater a period than permitted for the original adopted Assessment
- 139 Payment plans.
- 140 F. The municipal officers shall annually file with the tax collector a list of installment payments
- due the municipality under such written agreements with the owner or owners of land so
- 142 assessed.
- 143 G. If the person so assessed within thirty (30) days after written notice of the total amount of
- such assessment and charges, or annual installment payment and interest, fails, neglects or
- refuses to pay such municipality the expense thereby incurred, or fails to enter into a written
- agreement as provided herein for payment of the same, or fails to pay any installment due
- under a written agreement so entered, then a special tax in the amount of the total unpaid
- assessment and charge may be assessed by the municipal assessor upon each and every lot
- or parcel of land so assessed and buildings upon the same.
- 150 H. Such assessment is to be included in the next annual warrant to the tax collector for
- 151 collection, and collected in the same manner as state, county, and municipal taxes are
- collected. Interest at a rate of twelve percent (12%) per year on the unpaid portion of
- assessments and charges due the municipality accrues from the thirtieth day after written notice
- to the person assessed, and is to be added to and become part of the special tax when
- 155 committed to the tax collector.

### 156 Article VI. New Sewer Service Connection Fees

- 157 **13.1.6 Requirement.**
- 158 13.1.6.1 Benefited and Assessed Properties.
- 159 Main extension projects include properties established by the Town Council as benefited and
- owners are obliged to pay an assessment fee as ordained above. The fees required by the
- provisions of this chapter do not apply to connections to the municipal sewage collection system
- of any structure existing at the time of adoption of an Assessment Plan for such benefitted and
- 163 assessed properties.
- 164 13.1.6.2 Changes to Benefited and Assessed Properties Impact Fee.
- An impact fee is assessed when there is a change in the use, character, or size, of any structure
- on a parcel, or any other condition that results in additional sewage flow from that parcel.
- Additional sewage flow is any increase in the number of units of occupancy over that existing at
- the time of adoption of an Assessment Plan resulting in an increase in the wastewater discharge
- over that existing; or, reasonably estimated to have existed as date of the benefit assessment
- 170 plan adoption.
- 171 13.1.6.3 New Main Entrance Connection.
- 172 Changes in use for benefited properties and all properties not included in a prior main extension
- 173 Assessment Plan (not benefited or assessed) requiring a new sewer main entrance connection
- must pay a special sewer entrance connection fee, as reflected in §13.1.6.6.
- 175 13.1.6.4 Changes to Unassessed Properties Impact Fee.
- 176 All properties not included in a prior sewer main extension Assessment Plan (not benefited or
- assessed) must pay an impact fee as reflected in §13.1.6.5, except any which have an
- easement agreement granted to the Town in lieu of other compensation.
- 179 **13.1.6.5 Sewer Impact Fee.**
- 180 **13.1.6.5.1** Time Payable.
- 181 Sewer impact fees, payable by the property owner pursuant to this section, must be paid prior to
- the connection of any sewer line to the municipal sewage collection system; or upon the
- issuance of any plumbing permit for additional plumbing fixtures; or change in use of any
- property already connected to the municipal sewage collection system.
- 185 **13.1.6.5.2** Amount Determined.
- The sewer impact fee payable is determined by multiplying the unit charge for the particular
- category(s) of property use as set forth in §13.1.6.5.3 or 4, by the sewer impact fee set forth in
- 188 Town Code Appendix A.

### 189 13.1.6.5.3 Categories of Use and Unit Charge. The following categories of property use carry the unit charge set forth herein to be used in the 190 computation of the sewer impact fee as provided above: 191 192 Minimum charge 1/2 unit charge 193 Single-family dwelling or condominium unit\_\_\_\_\_1 unit charge Multifamily dwelling or condominium per unit\_\_\_\_\_1 unit charge 194 3 hotel units (double occupancy)\_\_\_\_\_1 unit charge 195 5 motel units (double occupancy) 1 unit charge 196 4 boarding house (double occupancy)\_\_\_\_\_1 unit charge 197 198 7 cabins 1 unit charge 15 school students (day school) \_\_\_\_\_1 unit charge 199 4 school students (boarding school) 1 unit charge 200 2 hospital beds (medical)\_\_\_\_\_1 unit charge 201 3 nursing home beds\_\_\_\_\_1 unit charge 202 203 50 theater seats \_\_\_\_\_1 unit charge 204 30 employees \_\_\_\_\_1 unit charge Retail store per 1,500 gross square feet \_\_\_\_\_1 unit charge 205 206 1 laundromat machine\_\_\_\_\_1 unit charge 207 1 automobile service station\_\_\_\_\_3 unit charges 208 Fast food and/or drive-in service restaurant (15 seats)\_\_\_\_\_1 unit charge 209 10 yacht or country club members \_\_\_\_\_1 unit charge 210 50 church members \_\_\_\_\_1 unit charge 211 212 Industrial and manufacturing use Base minimum on domestic use plus any process 213 214 water usage 215 Commercial and retail uses: 5 plumbing fixtures added to existing structures 216 and connected to wastewater collection system\_\_\_\_\_1 unit charge 217 218 For any category of use or change in use not specifically set forth above, the enforcing officer 219 determines the total number of unit charges based upon a per unit load of three hundred (300) 220 gallons per day. 221 13.1.6.5.4 Proportional Factors. When the number of units within a category of use does not exactly correspond to that listed in 222 223 the schedule above, a proportional factor is to be utilized to calculate the total sewer impact fee. 224 For example, to compute the total sewer impact fee for a seven-unit motel the following 225 calculation is used: 7 motel units = 1 Unit charge for 5 + 2/5 Unit charge for 2 226 $= $3,000 + (2/5 \times $3,000 ($1,200)) = $4,200.00$ 227 228 13.1.6.5.5 Multiple Category Factors. 229 If two or more categories of use may apply to a particular proposed use, the sewer impact fee is 230 the higher of the two or more calculations. However, when there are multiple uses within a structure, each such use is subject to a separate sewer impact fee. 231

- 232 **13.1.6.5.6** Fee Determination.
- 233 The sewer impact fee due and payable by the property owner is to be calculated and
- 234 determined by the Code Enforcement Officer.
- 235 13.1.6.6 Special Sewer Entrance Connection Fee.
- 236 A. A special sewer entrance connection fee as set out in Town Code Appendix A is established
- 237 on a per-dwelling-unit basis for residential zones and on a per-unit-of-occupancy basis for
- buildings in a nonresidential zone for each new sewer entrance connection to a system main.
- B. The entrance connection fee is to be paid in full prior to the issuance of a permit for the new
- 240 connection.
- 241 13.1.6.7 Off-premises Construction Costs.
- 242 All costs of extending sewage lines from the property to be serviced to the municipal sewage
- 243 collection system are to be assumed solely by the owner or party having an interest in the
- 244 property to be so serviced. No such construction may commence until there is complete
- compliance with all provisions of this chapter and all other relevant governmental statutes, rules
- and regulations. Extension of the sewer lines and pumping station must meet the standards of
- the Town and capacity must be such as to handle all anticipated sewage flows and allow for
- 248 flow from all possible future extension or development within immediate drainage area as
- 249 determined by the Town.
- 250 13.1.6.8 Municipal Contracts or Agreements Exempted and Town Property.
- 251 This chapter does not apply to sewage disposal covered by any agreement or contract between
- the Town and any governmental body, or subdivision thereof, nor does it apply to the treatment
- of any sewage flow from property owned by the Town.
- 254 **13. 1.6.9** Enforcement.
- 255 This chapter is enforced by the code enforcement officer.
- 256 Article VII Special Entrance and Impact Fee Fund Accounting
- 257 13.1.7 Special Entrance and Impact Fee Fund.
- 258 A. A Wastewater Treatment Department fund account is established and is the depository for
- 259 all special sewer entrance connection and impact fees collected under the terms of this chapter.
- 260 Said fund is to be accounted as a Department designated reserve and used solely and
- 261 exclusively towards expenses for capital improvements and repair/replacement of capital
- 262 components of the municipal wastewater treatment system.
- 263 B. The proceeds in this fund may be expended in concert with other revenues and planned
- 264 expenditures or capital improvement funds of the Town, but only for capital improvements to the
- 265 municipal wastewater treatment system as distinct from expenses for regular operations,
- 266 maintenance, and repair. All moneys accumulated in this fund are to be expended by the Town
- for the specific purposes stated herein within ten (10) years of their collection and deposit
- therein, or within the amortization period of any project bond created for the same purpose(s).

### 269 Chapter 13.2 SEWER SERVICE DECISION APPEALS

- 270 13.2.1 Arbitration Appeal of Assessment.
- A. Any person not satisfied with the amount of assessment pursuant to §13.1.4.3 may appeal
- within ten (10) days after a hearing by the municipal officers, pursuant to 30-A, M.R.S. §3443,
- Arbitration of assessment, to an independent arbitration panel as established by the municipal
- 274 officers as incorporated in the Assessment Plan adopted for any main extension project.
- 275 1. Arbitrators selected. The municipal officers shall nominate six persons who are residents of
- the municipality. The applicant shall select two of these persons, and these two persons shall
- 277 select a third person who is a resident of the municipality and who is not one of the six persons
- 278 nominated by the municipal officers.
- 2. Arbitration procedure. The three persons selected under subsection 1 shall fix the amount to
- 280 be paid by the applicant. Within 30 days from the hearing before the municipal officers under
- 30-A, M.R.S. §3442, the arbitrators shall report their findings to the municipal clerk who shall
- record them. The arbitrators' report is final and binding on all parties.
- 283 B. Appellants are referred to 14, M.R.S. Chapter 706, Uniform Arbitration Act, §5931, et seg, for
- statutory provisions related to such appeals.
- 285 13.2.2 Unbuildable Parcel Appeals.
- 286 **13.2.2.1 Definitions.**
- 287 The following definitions apply to this Section only:
- 288 Unbuildable means no structure containing or required to contain sanitary facilities may be
- 289 legally constructed due to zoning restrictions.
- 290 **Zoning** means any land use and development statute, ordinance, rule, or regulation
- 291 promulgated by a federal, state, or local government or agency.
- 292 13.2.2.2 Right to Unbuildable Parcel Appeal.
- 293 Any person owning a property, included in an adopted Assessment Plan for a sewer main
- extension project, not satisfied with the amount assessed pursuant to §13.1.4.3 may, prior to
- 295 Assessment Fee payment due date and without limitation of time thereafter, appeal the
- assessed amount to the Board of Appeals (BoA), as an unbuildable parcel, provided that:
- 297 A. The appellant was the record owner of the assessed property and, excepting spousal
- 298 inclusions or exclusions, remains so without interruption at time of appeal; and
- 299 B. The assessed property was vacant, or was improved by structure(s) neither containing nor
- 300 required to contain sanitary facilities.
- 301 13.2.2.3 Initiating an Unbuildable Parcel Appeal.
- 302 A. Unbuildable Parcel Appeals are to be filed in accordance with Town Code Title 16, §6.5,
- 303 Board of Appeals Appeal/Request Filing Procedures. The pertinent provisions of that Code
- section's protocols for the Board to address such appeals apply.
- 305 B. Filed applications must be accompanied by a written statement from the Code Enforcement
- 306 Officer and Town Planner regarding whether the involved property is developable as defined in
- 307 this section.

- 308 13.2.3 Sewer Service Administrative Decision Appeals.
- 309 A. Any person filing a permit application for a sewer special entrance connection; or, is
- determined by the Code Enforcement Officer to be obliged to pay an impact fee, who may be
- 311 aggrieved by the provisions set forth herein, may file an Administrative Decision appeal to the
- 312 BoA for a review of the determination.
- 313 B. Any person denied a Payment Plan by the tax collector may file an Administrative Decision
- 314 appeal to the BoA for such decisions.
- 315 C. Such Administrative Decision appeals are to be filed in accordance with Town Code Title 16,
- §6.5, Board of Appeals Appeal/Request Filing Procedures. The pertinent provisions of that
- 317 Code section's protocols for the Board to address such appeals apply.

### REPORT TO COUNCIL - SEWER ASSESSMENT ARBITRATION

1 RESPONSIBLE INDIVIDUAL: Granfield Date: 08-08-16

2 SPONSOR: Beers

3 **SUBJECT:** Sewer Assessment Arbitration Appeal Process

### 4 BACKGROUND:

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Sewer Assessment Plan Development Process – Council Workshop 071816

"Any person not satisfied with the amount of assessment pursuant to §13.1.4.3 may appeal within ten (10) days pursuant to 30-A, M.R.S. §3443 to an independent Arbitration panel as established by the municipal officers as incorporated in the Assessment Plan adopted for any main extension project. Appellants are referred to 14, M.R.S. Chapter 706, Uniform Arbitration Act, §5931, et seq, for statutory provisions related to such appeals."

### **CURRENT SITUATION:**

- With statute and ordinance calling for an arbitration process to be made available to
  owners disagreeing with their assessment, a model set of draft documents is proposed
  to facilitate arbitrator appointment; affirm selection for specific appeals; provide basic
  information in hearing appeals; and, appellant forms for filing an arbitration request.
- Note that any grant of relief reducing an assessment (also for Council hearing or Board of Appeals unbuildable lot issues) will add that amount to the Department's payment obligation.
- 20 **RECOMMENDATION:** Approve as presented

### **ENCLOSURES**

- 1. Arbitration Appeal Model Documents (Pages 1-5)
  - a. Arbitrator Nomination Form
  - b. Appeal Specific Arbitrator Appointment Form
  - c. Arbitration Process
- 2. Arbitration Appeal Request Form (Pages 1-2)



# TOWN OF KITTERY MAINE TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904 Telephone: (207) 475-1328 Fax: (207) 439-6806

1	2015 SEWER MAIN EXTENSION ASSESSMENT APPEAL						
2	ARBITRATOR PANEL – COUNCIL NOMINATION						
3							
4	NAME: RESIDENCE:						
5	MAILING: E-MAIL:						
)	PHONE #: (HOME) (WORK)						
	I am a legal resident of the Town of Kittery.						
	My property is serviced byTown sewer /septic-leach field.						
) }	I understand that I must be disinterested or indifferent in the matter of any sewer assessment appeal made by property owners affected by the 2015 Sewer Main Extension Project: and, that a relationship by consanguinity or affinity within the 6 <sup>th</sup> degree according to the civil law, or within the degree of 2 <sup>nd</sup> cousins inclusive, with any owner so affected, except by written consent of the parties, disqualifies me for this duty.						
	I have no known conflict of interest related to this matter, as defined in Maine law and the Kittery Town Charter.						
	I have been given copies of:						
	30-A MRS §3442, Expense of construction, and §3443, Arbitration of assessment;						
	14 MRS Chapter 706, Uniform Arbitration Act; and						
)	Kittery Town Code Title 13, Article IV, Main Extensions (excerpted).						
2	(Nominee Signature) (Date)						
	(Witness Signature) (Date)						



# TOWN OF KITTERY MAINE TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904 Telephone: (207) 475-1328 Fax: (207) 439-6806

5 2015 SEWER MAIN EXTENSION	ASSESSMENT APPEAL
6 APPEAL SPECIFIC ARBITRA'	TOR APPOINTMENT
7	
8 NAME: RESIDENCE:	
9 MAILING: E-MAIL	.:
0 PHONE #: (HOME) (WORK)	)
4	
I am a legal resident of the Town of Kittery.	
My property is serviced byTown sewer /	_septic-leach field.
I understand that I must be disinterested or indifferent appeal made by:	in the matter of a sewer assessment
6	; and
( ppenant rame , radiose, ric	perty Map & Lot #)
that a relationship by consanguinity or affinity within the	e 6 <sup>th</sup> degree according to the civil law, or
within the degree of 2 <sup>nd</sup> cousins inclusive, except by w	ritten consent of the parties, disqualifies
me for this duty.	
the state of the s	er, as defined in Maine law and the Kittery
I have been given copies of:	
Project history; voter approved ballot article; and,	project costing data;
Council-adopted Assessment Plan and Calculation	on Bases; and the
6 Appellant's Assessment Formal Notice and Timin	g of the Appeal.
7 Appellant's Assessment Appeal Application.	
8	
	(Date)
	(Date)
7 8 9 0 1 2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 7	NAME:

### 53 ARBITRATION of ASSESSMENT APPEALS

- 54 The Kittery Town Council offers no direction or instruction on how Arbitrators for this matter
- may fulfill their obligation. These Arbitration "rules" are for guidance to conducting the process.
- The provisions of 14 MRS Chapter 706, Uniform Arbitration Act also apply.
- 57 The following information is for Arbitrator consideration in dealing with the matter and its bases
- 58 for reaching its decision.
- 59 1. Upon review of the Appellant's filing and the adopted Assessment Plan details, determine if
- 60 the plan:

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- Assessed "a sum not exceeding the benefit the municipal officers may deem fair and equitable towards defraying the expenses of said sewer construction".
  - (Title 13.1.4.3.1 Determination of Benefits.)
- Did not "not exceed one-half the cost of the entire project contract price"
- 65 (Title 13.1.4.3.3 Limitation on Assessment—Formula for Determining Cost.)
- Utilized "a formula for determining the fair and equitable cost to the owner or owners of land so benefited".
  - (Title 13.1.4.3.3 Limitation on Assessment—Formula for Determining Cost.)
- 69 Defining:
- 70 Fair: Just or appropriate in the circumstances
- 71 **Equitable:** Fair and impartial
- Assessment dimensions of the property and other arithmetical calculations used for calculating the assessment are correct.
- Assessment formula for this assessment is the same as all other in the assessment plan.
- 75 2. Determine if there are mitigating factors related to this Appeal not considered in the plan.
- 76 (e.g. unbuildable area; no access to some/all of the property; number of bathrooms or other
- sewer drain connections; property was considered in "like" fashion with others (e.g. residential,
- 78 commercial; growth criteria; existing dwellings); other factors).
- 79 3. Does the sum of the information/circumstances presented and reviewed warrant a revision of
- the Assessment?
- 4. What revision to the Assessment is decided upon, or not; and, what is the basis of the
- 82 decision?

### 83 BASES FOR ASSESSMENT ARBITRATOR DECISIONS

### 84 1. Basis in Law / Prerequisites.

- 85 A. The Arbitrators must determine whether the appellant has legal standing and that basic Appeal
- form(s) and material(s) are complete and were filed timely.
- 87 B. If the Arbitrators determines the appellant has not met these preliminary requirements they must
- deny the Appeal, expressly stating the reason(s).
- 89 C. If the Arbitrators decide the appellant has met these preliminary requirements then it may proceed
- 90 with substantive review.

### 91 2. Checklist for Reviewing Evidence.

- 92 Before the Arbitrators decide whether to hear, approve, or deny, the Appeal, they must establish the
- 93 following:
- 94 1) What do the ordinance/statute(s) require the appellant to prove?
- 95 3) What factors must the Arbitrators consider under the ordinance/statute(s) in deciding whether to approve the Appeal?
- 4) Has the appellant met the burden of proof, i.e. has the appellant presented all the evidence which
   the Arbitrators need to determine whether the Appeal should be granted? Is that evidence substantial?
   Is it credible? Is it outweighed by conflicting evidence?
- 5) To what extent does the ordinance/statute(s) authorize the Arbitrators to impose conditions on its approval?

### 102 3. Arbitrators' Decision Basis.

- 103 A. As a general rule, the Arbitrators must determine whether there is sufficient evidence in the record to
- support a decision to grant the Appeal by comparing the information in the record to the requirements of
- the ordinance/statute.
- 106 B. The Arbitrators must not base their decision on the amount of public opposition or support displayed
- for the Appeal. Nor must their decision be based on their general opinion that the Appeal would be
- 108 "good" or "bad" for the community. Their decision must be based solely on whether the appellant
- has met the burden of proof to be granted relief.

### 110 4. Standards of Consideration.

### 111 4.1 Substantial Evidence Test.

- 112 Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to
- support a conclusion. The fact that two inconsistent conclusions can be drawn from the recorded
- evidence related to a specific performance standard does not mean that the Arbitrators' conclusion
- regarding that standard is not supported by "substantial evidence."
- Unless the appellant can demonstrate both that the Arbitrators' findings are unsupported by record
- evidence and that the record compels contrary findings, the Arbitrators are to deny an Appeal on the basis
- that shows that the proposed project would have specific adverse consequences in violation of the criteria
- 119 for approval.

### 120 4.2 Investigation by Arbitrators Members.

- 121 If Arbitrators do conduct independent investigations in order to generate information needed to help the
- 122 Arbitrators analyze an Appeal and reach a decision, those members must be careful to be objective in
- their quest; otherwise, the appellant may have grounds to cite one or more members for bias or due
- process violations. Such member must use the pro forma guide approved by the Arbitrators.

- 125 4.4 Staff Interpretations.
- Where a municipal official whose principal job is to interpret an ordinance/statute(s) offers statements
- about the proper legal-technical interpretation of the matter and whether the appellant's evidence was
- sufficient to comply with the requirements, the opinion of that official is entitled to some deference.
- 129 4.5 Reopening the Hearing Process.
- 130 The Arbitrators may reopen the hearing process to allow an appellant to submit new evidence to clarify a
- technical issue and modify its plan without allowing additional public comment. The Arbitrators should
- consider whether there had been prior hearings that were more than adequate to afford due process.
- 133 4.6 Preserving Objections for Appeal.
- 134 If a party to the proceedings has any objections to procedures or proposed findings by the Arbitrators, the
- party should raise them at the meeting so that the Arbitrators have a chance to consider them and address
- them in its decision. Failure to raise objections before the Arbitrators may prevent that person or any
- other party from making those objections in an appeal to the Superior Court.
- 138 4.7 Unpreserved Error.
- In a case where mistakes made by an agency were not objected to as the law requires the Arbitrators may
- choose to look at the mistake even though there was no objection, if it determines that the error was
- evident, obvious, and clear, and materially prejudiced a substantial right, meaning that it was likely that
- the mistake affected the outcome of the case in a significant way. If a party commits forfeiture of error,
- e.g., by failing to raise a timely objection, then on appeal, the burden of proof is on that party to show that
- plain error occurred. If the party did raise a timely objection that was overruled, then on appeal, the
- burden of proof is on the other party to show that the error was harmless error.

### 4.8 Findings of Fact.

146

- The summary of facts for all appeal/request decisions must include:
- the name of the appellant;
- basic description of the issue on Appeal:
- key elements of the issue and applicable ordinance(s)/statute(s);
- evidence submitted by the appellant beyond what is shown on a plan;
- evidence submitted by people other than the appellant either for or against the issue; and
- evidence which the Arbitrators enter into the record based on the personal knowledge of its members or experts which the Arbitrators have retained on its own behalf.
- 4.9 Notice of Decisions of the Arbitrators of Appeals.
- Written notice of the Arbitrators' decision must be sent to the appellant, the Town manager, cognizant
- municipal department heads, and Town Council within seven (7) days of the decision. The vote of each
- member must be part of the record. The written notice of the decision must include the Arbitrators'
- Findings of Fact. In the case of denials, the statement of findings must include the reason for the denial.



### **TOWN OF KITTERY**

### OFFICE OF THE TOWN CLERK

200 ROGERS ROAD, KITTERY, MAINE 03904 PHONE: (207) 475-1309 FAX: (207) 439-6806

# Appeal Application to the ARBITRATOR PANEL (§13.1.4.5)

DATE SUBMITTED	
MAP & LOT	2 1855 - 1850 - 182 - 1830 - 18
FILING FEE	
DATE PAID	1000 10
DATE COMPLETE	
HEARING DATE	<del></del>

			9	owar Mai	n Evtoncia	on Assessn	nomt Ann	al			
Ιh	nereby reau	est an Appea							ontest: (Che	ok all that am	T )
	UNIT CAT				GE DIMEN				SSESSMEN		
	UNIT CHA				MENSION				Explain below)		NI
									1		
I was pro	ovided and	have review	red Town C	Code Title 1	3 and Main	e statutes p	ertinent to	this Appeal	application;	and, the 2	016 Town-
adopted	Assessmen	t Plan. My	appear is or	ased on the	following:						
TITLE		CHAPTER		SECTION						PAGE	
TITLE		CHAPTER		SECTION						PAGE	
TITLE		CHAPTER		SECTION						PAGE	
TITLE		CHAPTER		SECTION						PAGE	
. *	IN ORDER	R FOR AN AI	PPLICATION	N TO BE DE	TERMINED	COMPLETE	AND SCHE	DULED FOR	A HEARING	5: T	
		ION FORMS									
				PR	OPERTY II	VFORMAT	ION				
ADDRESS					J						
MAP			LOT#				LOT SI	ZE (sq. ft.)			
STREET F	RONTAGE				TOWN TA	X RECORD AC	COUNT #:			(ATTAC	Н СОРҮ)
PROPER	RTY OWNE	R: I have ri	ght, title or	interest in	the affected	property, o	r issue, as s	hown by:			
NAME(S)			· · · · · · · · · · · · · · · · · · ·								
MAILING A	ADDRESS						· · · · · · · · · · · · · · · · · · ·				
CITY			STATE				ZIP CO	DE			
PHONE No	).		5)-101-12-2-2-2-2-2-2-2-2-2-2-2-2-2-2-2-2-		e-MAIL:		<del>\***</del>				
NOTE: You	may have an a	attorney repres	ent you, but s	uch represent	ation is not n	ecessary. You	may also be i	represented by	a designated o	agent (e.g. fa	mily member,
APPLICA	NT (if differ	ent) I am ar	agent of th	neighbor, e	with stand	ractor) as you ing, OR, I ar	n an aggrie	ved party in	the subject	property, o	or issue.
as shown b	y:						17				
NAME(S)				V - V	<del></del>			<del> </del>		***************************************	
MAILING A	ADDRESS										
CITY			STATE				ZIP CO	DE			
PHONE No	).				e-MAIL:				· · · · · · · · · · · · · · · · · · ·		
To the b	est of my kr	nowledge, al	l informati	on submitte	d on and w	ith this app	ication is t	rue and cor	rect.		
Date:						By:					
				•				(Signature)			
								(Print Name	)		

# STATEMENTS: I wish to appeal to the Arbitrator Panel because I have a problem in regard to a matter of Town Code Title 13, Public Services and/or the 2016 adopted Assessment Plan: (Section, Title, Page No.) The Assessment Plan data/decision I object to is [Include formal documents related to the matter]: I object to the decision for the following reason(s): Unlike other affected property owners, I will suffer a particularized injury in this matter if not resolved in my favor. I am adversely and directly affected by: What relief is requested and why should the appeal be granted? Additional Information 1. Please complete this application in its entirety. You may add other information as may be needed to adequately describe the purpose of seeking relief from the Arbitrator Panel / Board of Appeals. [Support with citations(s), of pertinent ordinance(s), deeds, maps, documents, etc. Describe in detail what decision you are appealing; the date on which the decision was made; and, by whom, the facts surrounding this appeal, what you think is wrong about the decision which you are appealing, and what action you want the Panel Board to take in this matter. Also, please indicate how that Panel/Board's decision will affect you and/or your property. Use extra sheets if necessary and attach them to this

2. A detailed plot plan or diagram must be provided showing dimensions and shape of the lot, the size and locations of existing buildings, the locations and dimensions of proposed buildings or alterations, and any natural or topographic features (wetlands, streams, etc.) of the lot in question. This plot plan should show the detail of any rights-of-way, easements, or other encumbrances. A

3. Blueprints, surveys, photos and other documents may be helpful in explaining your request and should be included.

copy of the Town Property Tax Record must be provided.

application.]

### RTC - KITTERY TOWN CODE APPENDIX A – PROPOSED REVISIONS

RESPONSIBLE INDIVIDUAL: Granfield 1 Date: 08-08-16 2 **SPONSOR:** Beers 3 SUBJECT: Town Code Appendix A Revision/Amendment 4 **BACKGROUND:** 5 Sewer Assessment Plan Development Process - Council Workshop 071816 Impact and Special Entrance Fees have not changed in decades 6 Confusion has existed over the specific application of the Fees, addressed to clarify in 7 8 Title 13 revision proposal • Special Entrance was not included in Appendix A in keeping with all other Town Code 9 required fees 10 • Sewer usage rate greater than 1,000cf contains an error uncorrected since 2011 11 12 **CURRENT SITUATION:** 13 Proposed Title 13 amendments revise the article/section numbering and fee 14 nomenclature. A resident suggested that the explanation of Impact and Special Entrance fees be 15 included. 16 "Strikeout/underscore" draft (encl 1) provided for considered are intended to increase the 17 18 Fees to an appropriate level. 19 Drafts are in due form and proper format.

### **ENCLOSURE**

20

1. Appendix A proposal

**RECOMMENDATION:** Approve as presented\

# RTC - KITTERY TOWN CODE APPENDIX A – PROPOSED REVISIONS

21	KITTERY TOWN CODE APPENDIX A	
22	SCHEDULE 13. PUBLIC SERVICES	
23	Chapter 13.1 SEWER SERVICE SYSTEM	
24	Article I. In General	
25	Rates and charges: Quarterly Usage	
26	1. First 1,000 cubic feet or fraction thereof	\$75.00
27	2. Per one hundred cubic feet in excess of 1,0500 feet	\$5.00
28	Article III. Building Sewers and Connections	
29	Building sewer permit fees:	
30	Residential or commercial	\$15.00
31	2. Industrial	\$15.00
32	Article IV. Main Extensions	
33	Special sewer entrance permit fee \$2,500.00	
34	Article V. Private Sewage Disposal	
35	Private sewage disposal system permit and inspection fee	\$10.00
36 37	Private sewage treatment facility after-hours labor charge (three-hour minimum labor charge)	\$25.00 per hour
38	Septic tank contents discharge rate	\$0.10 per gallon
39	Holding tank contents discharge rate	\$0.015 per gallon
40	Article VI. New Sewer Service Connection Fees	
41	Sewer Impact Fee (per unit charge)	\$3,000.00
42 43 44 45	Sewer impact fees payable by the property owner must be paid prior to the sewer line to the municipal sewage collection system; or upon the issuan permit for additional plumbing fixtures; or change in use of any property at the municipal sewage collection system. (See §13.1.6.5).	ce of any plumbing
46	Special Sewer Entrance Connection Fee	\$3,000.00
47 48 49	This fee is established on a per-dwelling-unit basis for residential zones a occupancy basis for buildings in a nonresidential zone for each new entra system main. (See §13.1.6.6).	ind on a per-unit-of- ance connection to a

# **Department of Public Safety Liquor Licensing & Inspection Division**

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.



BUREAU USE ONLY	
License No. Assigned:	
Class:	1000
Deposit Date:	
Amt. Deposited:	

PRESENT LICENSE EXPIRES

INDICATE TYPE OF PRIVILEGE: X MALT X SP	irituous Xvinous
INDICATE TY	PE OF LICENSE:
□ RESTAURANT (Class I,II,III,IV)	☐ RESTAURANT/LOUNGE (Class XI)
☐ HOTEL-OPTINONAL FOOD (Class I-A)	☐ HOTEL (Class I,II,III,IV)
□ CLASS A LOUNGE (Class X)	☐ CLUB-ON PREMISE CATERING (Class I)
□ CLUB (Class V)	GOLF CLUB (Class I,II,III,IV)
□ TAVERN (Class IV)	OTHER: Qualified Catere
REFER TO PAGE 3	FOR FEE SCHEDULE
ALL QUESTIONS MUST	Γ BE ANSWERED IN FULL
1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co.,	2. Business Name (D/B/A)
etcork DISTributors Inc.	For The Love of Food + Drink
DOB:	
DOB:	Location (Street Address)
Address/2 MacDougal St.	City/Town State Zip Code  Krttey ME 03904
	Mailing Address
City/Tophny/CVU State/E 359dg	City/Town State Zip Code
Telephone Number 3. 8820 Fax Number	Business Telephone Number Fax Number
Federal I.D. # 47-4034030	Setter Certificate # 75010
41-4030030	Setter Certificate # 25949
3. If premises is a hotel, indicate number of rooms available	23909
	for transient guests:
3. If premises is a hotel, indicate number of rooms available	for transient guests:  ROOMS \$ FOOD \$ LIQUOR \$
<ul><li>3. If premises is a hotel, indicate number of rooms available</li><li>4. State amount of gross income from period of last license:</li></ul>	for transient guests:  ROOMS \$ FOOD \$ LIQUOR \$
<ul><li>3. If premises is a hotel, indicate number of rooms available</li><li>4. State amount of gross income from period of last license:</li><li>5. Is applicant a corporation, limited liability company or lim</li></ul>	for transient guests:  ROOMS \$ FOOD \$ LIQUOR \$  nited partnership? YES X NO □
<ul> <li>3. If premises is a hotel, indicate number of rooms available</li> <li>4. State amount of gross income from period of last license:</li> <li>5. Is applicant a corporation, limited liability company or limited types, complete Supplementary Questionnaire</li> </ul>	for transient guests:  ROOMS \$ FOOD \$ LIQUOR \$  nited partnership? YES X NO □
<ul> <li>3. If premises is a hotel, indicate number of rooms available</li> <li>4. State amount of gross income from period of last license:</li> <li>5. Is applicant a corporation, limited liability company or limited</li> <li>If YES, complete Supplementary Questionnaire</li> <li>6. Do you permit dancing or entertainment on the licensed presented</li> </ul>	for transient guests:  ROOMS \$ FOOD \$ LIQUOR \$ nited partnership? YES X NO □  remises? YES □ NO X
<ol> <li>If premises is a hotel, indicate number of rooms available</li> <li>State amount of gross income from period of last license:</li> <li>Is applicant a corporation, limited liability company or limited</li> <li>YES, complete Supplementary Questionnaire</li> <li>Do you permit dancing or entertainment on the licensed promotion.</li> <li>If manager is to be employed, give name:</li> <li>If business is NEW or under new ownership, indicate start</li> </ol>	for transient guests:  ROOMS \$ FOOD \$ LIQUOR \$ nited partnership? YES X NO □  remises? YES □ NO X
<ol> <li>If premises is a hotel, indicate number of rooms available</li> <li>State amount of gross income from period of last license:</li> <li>Is applicant a corporation, limited liability company or limited</li> <li>YES, complete Supplementary Questionnaire</li> <li>Do you permit dancing or entertainment on the licensed promotion of the licensed promotion.</li> <li>If manager is to be employed, give name:</li> <li>If business is NEW or under new ownership, indicate start Requested inspection date:</li> </ol>	for transient guests:  ROOMS \$ FOOD \$ LIQUOR \$ nited partnership? YES X NO □  remises? YES □ NO X  ring date: siness hours:
<ol> <li>If premises is a hotel, indicate number of rooms available</li> <li>State amount of gross income from period of last license:</li> <li>Is applicant a corporation, limited liability company or limited</li> <li>YES, complete Supplementary Questionnaire</li> <li>Do you permit dancing or entertainment on the licensed promotion of the licensed promotion.</li> <li>If manager is to be employed, give name:</li> <li>If business is NEW or under new ownership, indicate start Requested inspection date:</li> </ol>	for transient guests:  ROOMS \$ FOOD \$ LIQUOR \$ nited partnership? YES X NO □  remises? YES □ NO X  ting date:

164 State House Station Tel: 207-624-7220 Fax: 207-287-3424

Augusta Me 04333-0164

# MAINE DEPT OF PUBLIC SAFETY

Print Name of Duly Authorized Officer

### STATE OF MAINE

### Liquor Licensing & Inspection Division

164 State House Station Augusta ME 04333-0164

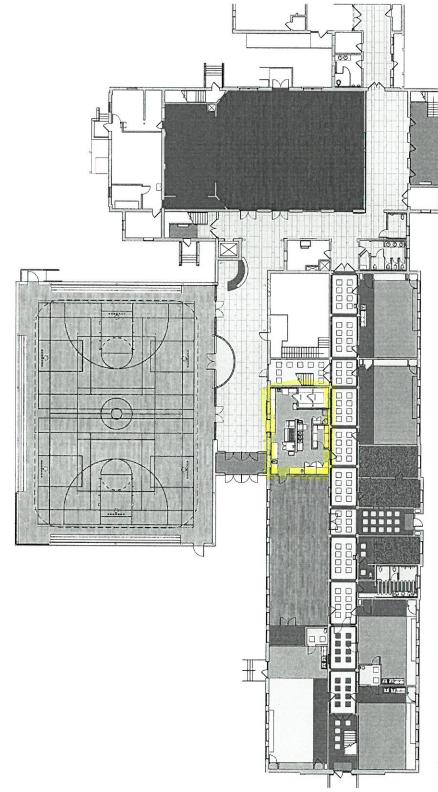
Tel: (207) 624-7220 Fax: (207) 287-3424



SUPPLEMENTARY QUEST	FIONNAIRE FOR CORPORATE APPLIC OMPANIES, AND LIMITED PARTNERSI	CANTS, LIMI HIPS	TED LIAF	BILITY
Exact Corporate Name:	cork Distributors	sinc		
	For The Love of Food + Drin			
2. Date of Incorporation:				
3. State in which you are incorp	porated: Maine			
~ ^ -	late corporation was authorized to transact bus	siness within th	ne	
5. List the name and addresses of stock owned:	for previous 5 years, birth dates, titles of office	ers, directors a	nd list the p	percent
	Print Clearly	Birth	% of	
Name	Address Previous 5 years	Date	Stock	Title
William Irish	12 MacDougal St. Kittery, ME	8.26.43	100%	Pres
	KIHCKY, ME			
6. What is the amount of author	rized stock?( o o ?_b Outsta	nding Stock?	ø	
	corporation a law enforcement official? Yes		(	
8. Has applicant(s) or manager violations, of the United State	ever been convicted of any violation of the lawes? Yes   No	v, other than m	ninor traffic	;
9. If YES, please complete the f	following: Name:			
Date of Conviction:	Offense:			
Location:	Disposition:			
Dated at:	On:			
Mulle off	ity/Town	Duy/	ate 25 / Zo	16
Signature of Duly Autho	rized Officer	O / Dar	te	
William	Irish			

12. List name, date of birth, and place of birth for all applicants, man Use a separate sheet of paper if necessary.	agers, and bar managers.	Give maiden name, if married:
Name in Full (Print Clearly)	DOB	Place of Birth
William Hugh Irish	8.26.4	
Residence address on all of the above for previous 5 years (Limit are 1/2 MacDougal Street)	aswer to city & state  KIHWY	ME
13. Has/have applicant(s) or manager ever been convicted of any vio of any State of the United States? YES □ NO X	lation of the law, other th	en minor traffic violations,
Name:	Date of Conviction:	
Offense:	Location:	
Disposition:		
14. Will any law enforcement official benefit financially either direct Yes   No X If Yes, give name:	ly or indirectly in your lie	cense, if issued?
15. Has/have applicant(s) formerly held a Maine liquor license? Y	es 🗆 no 🗶	
16. Does/do applicant(s) own the premises? Yes \( \text{No X} \) If No \( VE A D M M M M M M M M M M M M M M M M M M	give name and address	of owner:  MU, ME
17. Describe in detail the premises to be licensed: (Supplemental Dia KIHCY COMMUNITY CCM	gram Required) Kil-	tches at the
18. Does/do applicant(s) have all the necessary permits required by the YES X NO □ Applied for:	_	* · ·
19. What is the distance from the premises to the <b>NEAREST</b> school, measured from the main entrance of the premises to the main entropy or parish house by the ordinary course of travel? Same was 20. Have you received any assistance financially or otherwise (included)	rance of the school school	ol dormitery church chanel
20. Have you received any assistance financially or otherwise (include self in the establishment of your business? YES \( \simethin \text{NO} \)	ling any mortgages) from	any source other than your-
If YES, give details:	Pro- 4-7-1-2-6-10-1	
The Division of Liquor Licensing & Inspection is hereby authorized pertaining to the business, for which this liquor license is requested, in which any liquor license is in effect.  NOTE: "I understand that false statements made on this form are partial tion on this form is a Class D offense under the Criminal Code, punifine of up to \$2,000 or both."	and also such books, reco punishable by law. Know	ords and returns during the year
Dated at: Try 25 lettery Maine on Town/City, State  Please sign in blue i		_, 20 <u>15</u>
Signature of Applicant or Corporate Officer(s)	Signature of Applica	nt or Corporate Officer(s)
William H IRish	- FP	(-)
Print Name	Prir	nt Name

# KITTERY COMMUNITY CENTER AT FRISBEE COMMON



FIRST FLOOR FINISH PLAN

Fax: (617) 350 0215 OCTOBER 2011

Tel: (617) 350 0450

Massachusetts 02210

### NOTICE - SPECIAL ATTENTION

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

### THIS APPROVAL EXPIRES IN 60 DAYS.

	FEE SCHEDULE
Class I	Spirituous, Vinous and Malt
Class I-A	Spirituous, Vinous and Malt, Optional Food (Hotels Only)
Class II	Spirituous Only
Class III	Vinous Only
Class IV	Malt Liquor Only
Class V	Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)
Class X	Spirituous, Vinous and Malt – Class A Lounge
Class XI	Spirituous, Vinous and Malt – Restaurant Lounge
FILING F	TEE\$ 10.00
	NIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorgan-

**UNORGANIZED TERRITORIES** \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All fees must accompany application, made payable to: TREASURER, STATE OF MAINE. – DEPARTMENT OF PUBLIC SAFETY, LIQUOR LICENSING AND INSPECTION DIVISION, 164 STATE HOUSE STATION, AUGUSTA ME 04333-0164. Payments by check subject to penalty provided by Sec. 3, Title 28A, MRS.

### STATE OF MAINE

Dated at:				, N	laine	2			SS	
			City/Town				(Coun	ty)		
On:		Da	ite	<del></del>						
The undersigne	d bein	g:		Municipal Officers	[	□ Coun	ty Commission	ners	of the	
□ City □ T	own		Plantation	☐ Unincorporated I	lace	of:				_, Maine
Hereby certify th Maine Revised S	at we l	and	given public herby approv	notice on this application said application.	n and	l held pu	blic hearing the	reon as required b	by Section 65	3 Title 28A
				THIS APPROVAL				3		

### § 653. Hearings; bureau review; appeal

- 1. Hearing. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.
  - A. The bureau shall prepare and supply application forms. [1993, c.730, §27(amd).]
  - B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c.140, §4 (amd).]
  - C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new onpremise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of
    the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the
    date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as
    well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premise license
    that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premise
    license that has been extended pending renewal with 120 days of the filing of the application. [1999, c589, §1 (amd).]
- 2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:
  - A. Conviction of the applicant of any Class A, Class B or Class c crime: [1987, c45, Pt.A§4 (new).]
  - B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c.45, Pt.A§4(new).]
  - C. Conditions of record such as waste disposal violations, health or safety violation or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c.730, §27 (amd).]
  - D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c.592,§3 (amd).]
  - E. A violation of any provision of this Title; and [1989, c.592, §3 (amd).]
  - F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601. [1989, c.592, §4 (new).]

### [1993, c730, §27 (amd).]

- 3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.
  - A. [1993, c.730, §27 (rp).]
- 4. No license to person who moved to obtain a license. (REPEALED)
- 5. (TEXT EFFECTIVE 3/15/01) Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

State of Maine

DEPARTMENT OF HEALTH AND HUMAN SERVICES

EST ID: 25969

EATING PLACE - MOBILE

FOR THE LOVE OF FOOD & DRINK 120 ROGERS RD

120 ROGERS RD KITTERY ME 03904 EXPIRES: 03/31/2017

FEE: \$200.00

IRISH, BILL FOR THE LOVE OF FOOD & DRINK 12 MACDOUGAL ST KITTERY ME 03904

Mary C. Mayhew COMMISSIONER

NON-TRANSFERABLE

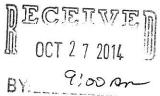
Please Contact Jeremy Paul at KCC With any questions - 207. 439. 3800.



# TOWN OF KITTERY, MAINE

# TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904 Telephone: (207) 475-1328 Fax: (207) 439-6806



# APPLICATION FOR APPOINTMENT TO TOWN BOARDS

NAME: Charles C. Patten	
RESIDENCE: 86 Wilson Road, Kittery, Maine 03904	
MAILING (if different) (e-mail) charliepatten@comcast.ne	et
E-MAIL ADDRESS: above PHONE #: (Hon	ne) 439-1589 (Work) 337-3022
Conservation Commission Cable Television Rate Regulation Board Recycling Scholarship Selection Comm. Parks Commission  Mary Scholarship Comm	of Assessment Review Safford Wildes Trust ish Conservation Committee nunity Center Bldg. Comm./Rec. Comm. Space Committee ing Board
EDUCATION/TRAINING: Nicholas College, Wentworth Ir	nstitute
RELATED EXPERIENCE (Including other Boards and Com-	missions) Owned and Operated
Badger's Island Marina 1972-2000 : Board of Trustees Tilt	on School, Chariman Physical
Plant Committee ,Tilton School : Board of Directors, SBR0	GA
PRESENT EMPLOYMENT: Retired	
ARE YOU A REGISTERED VOTER OF THE TOWN OF KIT	ΓERY ✓ Yes □ No
ANY KNOWN CONFLICT OF INTEREST: None	
REASON FOR APPLICATION TO THIS BOARD:   believe   0	can add value to the KPA
I HAVE /HAVE NOT /ATTENDED AT LEAST TWO MEETINGS OF IS BEING MADE. I AGREE TO ATTEND ALL MEETINGS, EXCEPT FO ADVISE THE CHAIRPERSON WHEN TAM UNABLE TO ATTEND, IF A	R SICKNIES OD EMIEDOENIOU ARTE VATET V
Marla Com	10/27/2014
SIGNATURE OF APPLICANT	DATE



# Town of Kittery, Maine Aug 0 1 2016

BY: LAZ 11:08 Am

TOWN CLERK'S OFFICE 200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

## **APPLICATION FOR APPOINTMENT TO TOWN BOARDS**

NAME: Mary Thron	<del>_</del>			
RESIDENCE: 7) Tower Fod				
MAILING (if different) PD Box 96 Kittern Point ME 03	905			
E-MAIL ADDRESS: MARYTHRON PHONE #: (Home) 439-4136 (Work)	_			
Please check one choice:         □ Board of Appeals       □ Board of Assessment Review         □ Conservation Commission       □ Mary Safford Wildes Trust         □ Comprehensive Plan Update Committee       □ Shellfish Conservation Committee         □ Education Scholarship Committee       □ CIP Committee         □ Parks Commission       □ Open Space Committee         □ Port Authority       □ Planning Board				
□ Personnel Board □ Other □ O	- MT			
EDUCATION/TRAINING: BA Daranth College, SM Sloan School of Bugine	<u>35</u> ! V I Y I			
RELATED EXPERIENCE (Including other Boards and Commissions) Multiple hopeds  Of Progerly Year best words to this Board; no specific  Ped Estate background, but have been involved with miltigle Real Estate  Present employment: Set - employed, CFD Specifics & Small Busnesses				
ARE YOU A REGISTERED VOTER OF THE TOWN OF KITTERY $\normalfont \delse$ Yes $\normalfont \delse$ No				
ANY KNOWN CONFLICT OF INTEREST (please read back of application): Aggeous of	_			
REASON FOR APPLICATION TO THIS BOARD: Significant selections and selections of the Board for which application is being made. I agree to attend all meetings, except for sickness or emergency, and will advise the chairperson when I am unable to attend, if appointed.				
Please read the back of this application before signing.				
SIGNATURE OF APPLICANT  DATE	_			

### RTC - KITTERY TOWN CODE APPENDIX A - PROPOSED REVISIONS

- 1 RESPONSIBLE INDIVIDUAL: Granfield Date: 08-08-16
- 2 SPONSOR: Beers
- 3 **SUBJECT:** Town Code Appendix A Revision/Amendment
- 4 BACKGROUND:
- Sewer Assessment Plan Development Process Council Workshop 071816
- Impact and Special Entrance Fees have not changed in decades
- Confusion has existed over the specific application of the Fees, addressed to clarify in
   Title 13 revision proposal
- Special Entrance was not included in Appendix A in keeping with all other Town Code
   required fees
- Sewer usage rate greater than 1,000cf contains an error uncorrected since 2011
- 12 CURRENT SITUATION:
- Proposed Title 13 amendments revise the article/section numbering and fee nomenclature.
- A resident suggested that the explanation of Impact and Special Entrance fees be included.
- "Strikeout/underscore" draft (*encl 1*) provided for considered are intended to increase the Fees to an appropriate level.
- Drafts are in due form and proper format.
- **RECOMMENDATION:** Approve as presented\

### **ENCLOSURE**

1. Appendix A proposal

### RTC - KITTERY TOWN CODE APPENDIX A – PROPOSED REVISIONS

21	KITTERY TOWN CODE APPENDIX A	
22	SCHEDULE 13. PUBLIC SERVICES	
23	Chapter 13.1 SEWER SERVICE SYSTEM	
24	Article I. In General	
25	Rates and charges: Quarterly Usage	
26	1. First 1,000 cubic feet or fraction thereof	\$75.00
27	2. Per one hundred cubic feet in excess of 1,0500 feet	\$5.00
28	Article III. Building Sewers and Connections	
29	Building sewer permit fees:	
30	Residential or commercial	\$15.00
31	2. Industrial	\$15.00
32	Article IV. Main Extensions	
33	Special sewer entrance permit fee \$2,500.00	
34	Article V. Private Sewage Disposal	
35	Private sewage disposal system permit and inspection fee	\$10.00
36 37	Private sewage treatment facility after-hours labor charge (three-hour minimum labor charge)	\$25.00 per hour
38	Septic tank contents discharge rate	\$0.10 per gallon
39	Holding tank contents discharge rate	\$0.015 per gallon
40	Article VI. New Sewer Service Connection Fees	
41	Sewer Impact Fee (per unit charge)	\$3,000.00
42 43 44 45	Sewer impact fees payable by the property owner must be paid prior to the sewer line to the municipal sewage collection system; or upon the issuant permit for additional plumbing fixtures; or change in use of any property at the municipal sewage collection system. (See §13.1.6.5).	ce of any plumbing
46	Special Sewer Entrance Connection Fee	\$3,000.00
47 48 49	This fee is established on a per-dwelling-unit basis for residential zones a occupancy basis for buildings in a nonresidential zone for each new entra system main. (See §13.1.6.6).	